



DIVISION OF FINANCIAL ADMINISTRATION

ADDENDUM #1

REQUEST FOR PROPOSAL # 2818

Marketing, Advertising, and Public Relations Services for the Diversity, Equity, Inclusion and Tolerance Public Awareness Campaign

Date: December 15, 2023

Original Bid Due Date: December 21, 2023 at 2:00pm EST

Revised Bid Due Date: January 3, 2024 at 2:00pm EST

To Prospective Proposers: This addendum is being issued to provide official answers to submitted questions and revision of the Key Events Table.

Revisions

R1. Key Events - Updated

The Table below outlines the schedule for important action dates.

<u>Action</u>	<u>Date</u>
<u>OGS Issues RFP 2818</u>	<u>November 28, 2023</u>
<u>Deadline for Submission of Proposer Questions</u>	<u>December 5, 2023</u>
<u>OGS Issues Responses to Written Questions (estimated)</u>	<u>December 8, 2023</u>
<u>Proposal Due Date</u>	<u>January 3, 2024</u>
<u>Oral Presentations (estimated)</u>	<u>Week of January 16 - 19, 2024</u>
<u>Contract Start Date</u>	<u>Upon OSC approval</u>

Questions and Answers:

Q1. Unfortunately, our company does not qualify for \$2 million revenue. Is this an important point? a deal breaker?

A1. All Proposer's must meet the minimum qualifications set forth in Section 1.4 – Minimum Proposer Qualifications.

Q2. Is it possible to bid on one section only? For example: deliverable 1? Or deliverable 7?

A2. No.

Q3. 2.2: How does the government plan to communicate the campaign messages and program deliverables to diverse linguistic communities (spoken and sign languages) within NY State?

A3. The messaging will primarily be in English. DHR will translate messaging into the top twelve languages spoken in New York, namely, Arabic, Bengali, Chinese (including Cantonese and Mandarin), French, Haitian Creole, Italian, Korean, Polish, Russian, Spanish, Urdu, and Yiddish, and provide adaptations in sign language as needed. DHR will provide translated copy to adapt into creative assets.

Q4. Is it possible for two organizations to collaborate and together (with one taking the lead and the other being a subcontractor) meet the \$2 million annual client billings requirement? If yes to the above, are there any other considerations a proposing firm should keep in mind in their application?

A4. No, the Prime bidding entity must meet the minimum qualifications independently. Section 1.4 - Minimum Proposer Qualifications states "Proposers may not use a Subcontractor's or any other entity's qualifications to meet requirements."

Q5. Attachment 1 (Cost Proposal Form, p. 108) requests vendors to propose a cost for each of the eight deliverables. However, the RFP provides no direction or guidance in terms of the overall budget. To help vendors appropriately scale each of the deliverables, please supply appropriate parameters or limitations for the overall budget.

A5. The overall budget for this project is \$300,000 to \$500,000.

Q6. If DHR will/cannot specify parameters or limitations for the overall budget, we alternatively request that DHR provide quantitative information to help vendors develop a cost-effective budget for the following categories: Deliverable 1, Deliverable 2, Deliverable 3, Deliverable 4, and Deliverable 5. (Starting on p. 8)

A6. Please refer to A5.

Q7. If no parameters are available either for the overall budget or specific deliverables, is it DHR's expectation that the successful vendor will be committing to a cost proposal with no flexibility or ability to negotiate?

A7. Please refer to A5.

- Q8.** Should vendors expect artist fees or other compensation associated with Deliverable 6 to be included in the cost proposal? Or would DHS compensate artists separately from the chosen vendor? (p. 10)
- A8.** All service costs to be incurred by the Proposer must be calculated into their Cost Proposal. No payments will be made separately to any other vendors.
- Q9.** Please specify how the selected vendor will be integrated into the network of HBPU Regional Councils comprised of local stakeholders? Specifically, will the marketing, advertising, and public relations services lead the efforts in building community efforts, or will the services follow those efforts?
- A9.** The selected vendor will be able to benefit from our stakeholders' knowledge and expertise while developing copy, messaging, and creative content. The vendor will work with DHR and the stakeholders in executing local events and programming.
- Q10.** In which ways will the selected vendor participate in, or support, a Rapid Response Team that will respond to hate and bias incidents across the state? (p. 8, item D under 2.1)
- A10.** The vendor will support the agency's Rapid Response team efforts by pre-creating creative/graphic resources, social media assets, toolkits, etc. that can be used in response to a variety of incidents.
- Q11.** Under what circumstances, if any, would the selected vendor's cost proposal be increased based on hate and bias incidents that were not foreseen or predicted?
- A11.** DHR does not anticipate additional work in response to particular hate and bias incidents, but rather the pre-creation of resources that can be used in a variety of incidents.
- Q12.** Is the primary objective of the RFP to prevent hate incidents and bias? Or is DHR's primary objective to respond to hate and bias incidents?
- A12.** The primary objective of the RFP is to build awareness, provide education and tools, and build community partnerships in furtherance of prevention.
- Q13.** What are the campaign's primary performance indicators across all deliverables and/or in relation to specific deliverables?
- A13.** Please refer to Section 2.2 and 2.3 for Deliverable requirements and payment criteria.
- Q14.** Section 1.4 of the RFP (p. 6) states that a qualified firm must have experience in Social Justice, Anti-Hate, Diversity, Equity, Inclusion or Rights Based campaigns. Section 4.1.1.A of the RFP (p. 20) more narrowly refers to campaign experience that combats hate. Please indicate whether a firm that has experience with campaigns that promote equity, inclusion, and diversity will meet the RFP's requirements even if that firm has no direct experience with campaigns combat hate.

A14. Yes, firms meet the requirements if they have worked on equity, inclusion, diversity, etc. campaigns.

Q15. Can you let me know what problem this campaign is trying to solve? Or is it merely designed to build awareness?

A15. Incidents of hate have been rising in New York State and in the USA. DHR seeks to build awareness, provide education and tools, and build community partnerships in furtherance of prevention.

Q16. Can you define "community" as it relates to this bid?

A16. New York State is incredibly diverse, regarding race, religion, sexual orientation, etc. as well as urban/rural areas. Messaging must be aimed at all populations and should be responsive to the experiences of these populations.

Q17. Is the awardee responsible for managing the rapid response division, or will there be an internal team that we would liaise with?

A17. The awardee will not manage or work directly on Rapid Response. The awardee will support the agency's Rapid Response team efforts by pre-creating creative/graphic resources, social media assets, toolkits, etc. that can be used in response to a variety of incidents.

Q18. Can you clarify what type of digital content the contractor is responsible for written, video, imagery, or graphics?

A18. DHR is seeking a campaign theme and branding, written content, the development of social media assets, videos that can be used for social media or television ads, graphics for promotional items and events.

Q19. Can you clarify what digital platforms this RFP covers: websites, social media, video channels, email, digital billboards, or digital signage?

A19. DHR is open to all the above, however, the work will primarily be to develop assets/graphics/copy for social media, video ads, and DHR's website.

Q20. Finally, I noticed there wasn't a questionnaire. What are you looking for in terms of a proposal? Are looking for concepts or simply our capacity to manage this contract (i.e., capability statement, team, experience)?

A20. Both. Please refer to Section 3.2 – Proposal Format and Content. This section identifies the requirements and content required in the proposal submission.

Q21. What is the maximum budget for this contract on an annual basis?

A21. Please refer to A5.

Q22. Do you want to see different budget levels? Do you have a sense of the tiers you would like us to show?

A22. Attachment 1 – Cost Proposal Form is intended capture all budget costs for each Deliverable.

Q23. Beyond the core budget, do you anticipate funds from other partners (other agencies, philanthropy, etc)?

A23. No.

Q24. When would they ideally want to “launch” or announce publicly?

A24. DHR is open to the awardee’s suggestion in this regard.

Q25. Are there key dates in the calendar that are particularly important to activate around?

A25. No. However, there are a variety of occasions such as Juneteenth, Pride Month, etc. that will call for the development of social media messaging.

Q26. Are there key cultural communities that are a special focus?

A26. Communities which have been the recent targets for hate may need specific messaging (i.e., responding to bias against AAPI, Arab/Muslim, Black, Jewish, LGBTQ+, etc. communities).

Q27. Is there a target age group for the campaign (tactics for youth and older adults vary widely).

A27. The campaign parameters are broad, however, DHR does anticipate the development of messaging/content on building awareness/prevention for youth.

Q28. How many languages, besides English, does content need to be translated into? Does all content need to be translated in all languages?

A28. Please refer to A3.

Q29. Are there geographic priorities? Does the campaign need to be spread evenly across the state? Are there hot-spot areas that need focus?

A29. This campaign will be statewide and touch each of the state’s ten regions.

Q30. Are there key metrics you envision for measuring the success of the campaign?

A30. DHR envisions that the number of people engaged with the creative messaging and with the events/programming will be the key metric.

Q31. Should our proposal include a third-party evaluation?

- A31.** There is no requirement for a third-party evaluation.
- Q32.** In addition to Regional Councils, are there key partners (agencies, nonprofits) that will be involved in the campaign dissemination?
- A32.** Other state and government agencies may support the effort on social media. Creative assets will be shared with community-based organizations, nonprofits, and civil rights entities for their use.
- Q33.** Does the proposal need to be narrative-only (MS Word document) or can/should include a presentation deck (PowerPoint) format?
- A33.** Proposals can be submitted in either format. However, all formats should be printed and submitted with your original paper submission, as well as provided on thumb drive (see Section 3.3 – Packaging of RFP Response). The cost proposal must be submitted on the word form provided.
- Q34.** Will this campaign be carried out in English and Spanish?
- A34.** Please refer to A3.
- Q35.** Will television, radio, and media be included, and will it be supported by non-profit organizations?
- A35.** DHR is seeking the development of content that can be used on social media, as well as radio, television, or in other formats. Nonprofits and community-based organizations will receive creative assets for their use on social media, etc.
- Q36.** What is your timing for the launch of the new campaign?
- A36.** Please refer to A24.
- Q37.** How would this campaign relate to the existing work done by the state, including “Hate Has No Home in New York” and “New York United: Stronger Together Against Hate”?
- A37.** The campaign may be a fresh start and would not have to build upon or compliment previous messaging or branding.
- Q38.** Do you have any campaigns that you look to from other states or initiatives around the country that you feel are good representations of the kinds of efforts you are undertaking and want to show in the campaign?
- A38.** The LA vs Hate campaign (<https://www.lavshate.org/>), the LA is for All campaign (<https://civilandhumanrights.lacity.gov/laforall/thecampaign>), the I Still Believe in Our City campaigns (<https://www.nyc.gov/site/cchr/media/pair-believe.page>) are among such models.

Q39. Please give more specific information/detail on the following specific to artwork:
2.2.1 Deliverable 1: Strategy and Creative Content: B. Contractor shall create **artwork** and messaging for the campaign that resonates with communities across New York State. Artwork and messaging should be adaptable to reach via paid advertising, promotional events, consumer materials and social media accounts.

A39. DHR seeks digital assets, graphics, social media, videos, etc. for this campaign.

Q40. Please give more specific information/detail on the following specific to artwork:

2.2.2 Deliverable 2: Key Creative Tactics: Contractor shall use concepts including the following:

A. Earned Media Plan which will use HBPU creative strategies to promote micro art/cultural interventions; website events; traditional press releases and advisories for press conferences; public service announcements; or rapid response plans to address specific hate acts.

*B. Contractor shall use non-traditional, low cost or no-cost publicity options, including: i) **art from large interventions or murals, reprinted in poster size and used as “wheat paste” minimurals installations Statewide,** ii) posters installed in public kiosks, bus shelters, metro train ads, or the DHR-HBPU website.*

*C. **Contractor shall make available art pieces for free when downloading as digital gifs or stickers or printed as window signs, lawn signs, or posters by New York residents.***

A40. DHR anticipates public art events to be a key component of the campaign. Such events can include but are not limited to a civil rights themed mural in a public venue, the display of civil rights themed artwork in an open space, etc. DHR anticipates that the vendor will locate and liaise with artists for such programs. DHR anticipates that there shall be one such public arts program held in each of the ten regions of the state.

Q41. Please give more specific information/detail on the following specific to **artwork**:

Section 2.2.6 Deliverable 6: Community Engagement – Art & Cultural Commissions

*A. **Contractor shall create, design and install a minimum of 10 art and cultural interventions to promote the message of HBPU.***

*B. **Contractor shall use public exhibit space; large scale social justice interventions on buildings; and/or art exhibitions.***

*C. **Contractor shall exhibit art/cultural commissions whenever possible. Art and cultural interventions will be located in high traffic, high-profile and high-value environments.***

D. Contractor shall curate a diverse set of artists that reach and energize vital cultural communities seen as target audiences for the HBPU Program, such as: Spoken Word Poets; Shoe Artists; Art Installation Artists; Muralists; Sign Painters.

Approval for payment of Deliverable 6 will be based upon completion of the art and cultural interventions and the curation of artists.

A41. Please refer to A40.

Q42. Do you have any more information you can share at this point about regional vs. state-wide initiatives?

A42. DHR anticipates messaging, creative assets, etc. developed for a statewide campaign. DHR will seek events, programming, etc. to be hosted in each of the ten regions of the state.

Q43. Is there an overall media budget for this campaign, or a total campaign dollar commitment?

A43. Please refer to A5.

Q44. Within Section 2.4 - Staffing Requirements/Key Personnel, you include required key personnel titles to fulfill the duties of this RFP (e.g., project manager, account supervisor, creative lead, etc.) As this RFP and work encompass digital, earned media, and more (and those are services we have experts for at our agency), could you please confirm that the staffing plan for this RFP could include more titles beyond the ones included to fulfill the work requirements?

A44. Yes, including titles additional to those required by Section 2.4 is acceptable.

Q45. Does the DHR utilize any social listening and/or web crawling technology to monitor trending indicators of hate or discrimination online? If yes, can you please provide any further context?

A45. No. DHR uses publicly available reporting from federal/state government agencies, as well as published reports from nonprofits and community-based organizations.

Q46. Does the DHR use any crime-tracking tools at a state or local level to monitor hate crimes and instances of bias, and discrimination (911 calls, police reports, charges, crimes, etc.)? If yes, can you please provide any further context as this may inform part of our measurement approach?

A46. Please refer to A45.

Q47. You mention partnerships with state, city, and non-profits. Are there any non-profit companies you currently have partnerships with?

A47. DHR's regional councils consists of community-based organizations, nonprofits, faith entities, as well as local government entities.

Q48. You mention creating youth initiatives/youth programming. Do you have any more details about this that you could please share?

A48. According to publicly available research, young people are often directly impacted by hate and bias. DHR will launch programming to engage with youth, ages 14 and over, on their experiences and aims to provide them with resources to deal with such matters.

Q49. For "toolkits", you mention prevention strategies; could you please share more about ideally what you are looking for toolkits to include? (There are many different approaches)

A49. DHR anticipates the vendor will compile resources provided by local stakeholders and subject matter experts, provide copyediting and graphic design, and produce a product that can be distributed digitally or as a physical copy. Examples may be found with LA v. Hate (<https://www.lavshate.org/partner-toolkits>) or the City of Eugene (<https://www.eugene-or.gov/DocumentCenter/View/42822/Hate-and-Bias-Prevention-and-Response-Toolkit>).

Q50. Would securing and/or rental of high-visibility public spaces be the responsibility of the agency, or will that be handled by HBPU?

A50. The vendor will secure space for murals, art installations, etc.

Q51. Are we looking to create specific social media channels and sites for HBPU? (they are currently tied to NYS Human Rights)

A51. No.

Q52. How many agencies will you narrow the search down to at the 'shortlist' stage?

A52. Please refer to RFP Section 4.1.2 – Preliminary Score and Down Selection.

Q53. Regarding the Cost Proposal Form outlining deliverables, does "price" refer to agency fees as well as any potential out-of-pocket expenses that may be incurred (i.e., purchasing media, production of creative materials, event marketing/site engagements, etc., etc.)?

A53. Yes, refer to RFP Section 5.4 - Price.

Q54. Do you have any cost considerations regarding the % breakout/importance of the referenced deliverables in terms of Digital Engagement, Websites, Ephemera Production, Community Engagement, and Creation of Toolkits?

A54. DHR is open to the awardee's breakdown of such costs.

Q55. Can you provide any guidance regarding quantities/budgets for the production of elements such as: a) # of microsites anticipated b) size and scope of art & cultural installations to

be created c) approx. quantity and specific components of each “toolkit” to be created d) quantity and scope of “ephemera” production such as t-shirts, stickers, etc. etc. e) number of micro-campaigns targeting specific communities?

A55. a) DHR seeks of content/assets/graphics for one microsite.

b) The size/scope of art/cultural installations may vary greatly from a series of posters on a street, to a mural project, to artwork at a mass transit station, etc.

c) DHR anticipates the vendor to create the 15 total toolkits described in RFP Section 2.2.7, by compiling resources provide by stakeholders and subject matter experts, and providing a digital product that may also be produced via print.

d) DHR expects minimum quantities of marketing products for use as samples and the design/production of at least ten backdrops/step & repeats/table tents etc. for use at events.

e) DHR is open to the vendor’s proposal but anticipates messaging to AAPI, Arab/Muslim, Black, Jewish, LGBTQ+, etc. populations.

Q56. Can you provide more information regarding the scope of work/materials/budgets anticipated to support existing HBPU programs (I.e., Regional Councils, Rapid Response Team, and Youth Initiatives)?

A56. Creative assets will be shared with the community-based organizations that make up DHR’s Regional Councils for distribution. These stakeholders will also be partners in developing and executing public programming, and toolkits. DHR anticipates programming to engage with youth, ages 14 and up, in youth programming.

Q57. Is the production of all the creative elements part of the scope? Do you have an internal creative services department, and to what extent might they be involved in the execution of communications?

A57. DHR has a limited created services team; primary responsibility for graphic design, layout, production of creative assets will be with the vendor.

Q58. Page 6, Section 1.4C - Requiring a company to have had more than two million dollars of sales in the advertisement space for every year for the last five years would seem to limit this RFP to large companies. If several smaller to mid-size MWBE companies were interested in applying for the RFP together, but under the leadership of one company, could they use combined income to qualify?

A58. Please refer to A4.

Q59. Pages 8-11, Sections 2.2.1-2.2.8 - Much of the creative scope is loosely or not defined in this RFP - for example, deliverable descriptions in Sections 2.2.1-2.2.8 describe the general direction for each deliverable, but do not detail any specific quantities of

deliverables, or timelines for the referenced media plans. In order to make a budget with the current information, there will need to be a certain amount of estimating -- when a specific scope is defined, the exact costs can be dialed in. How would you like vendors to account for this when submitting proposals?

A59. Please refer to A5.

Q60. Pages 8-11, Sections 2.2.1-2.2.8 - Are there ballpark budgets that you would like vendors to stay within for total campaign cost, or for cost within different sections (i.e. is there a budget or budget range for the web asks, the print asks, the live event asks, the video asks -- or is there a ballpark budget range for the proposal as a whole?)

A60. Please refer to A5.

Q61. Parts of the RFP scope (Section 2.1 and 2.2) as it stands including, section 2.2.1 Bullet i, alongside Earned Media Plan creation and ad-buying, are not in-house services for us. Because of this, would you allow us to propose for a partial scope that only includes our in-house services?

A61. No, the proposal must encompass all Deliverables and their cost for each. However, subcontracting is allowed.

Q62. Can we co-propose for this project with another agency/agencies?

A62. There must be one Prime bidding entity who meets the minimum qualifications. However, subcontracting is allowed.

Q63. Can you clarify the target audience of this campaign?

A63. The audience is broad. The campaign is to ensure that promotion the acceptance, inclusion, tolerance, and understanding of the diversity of people of New York State. There will be a particular focus on New Yorkers who may have experienced hate or bias.

Q64. Can you better define "Culturally focused" in section 2.1?

A64. New York is an incredibly diverse state. The campaign's messaging must be received by these diverse communities.

Q65. The goal of the campaign is, in part, to educate the public on "what constitutes hate acts, bias incidents, and their impact on individuals and communities." Will we be able to work with subject matter experts at DHS to fully understand the state's definition of these types of hate acts? Will these subject matter experts be able to give us briefings and vet our work?

A65. Yes.

Q66. Can you elaborate on the choice of public "artwork" as a means of engaging target audiences?

A66. This can vary greatly in size and scope. Anything from a series of posters on a street, to a mural project, to artwork at a mass transit station, etc.

Q67. In 2.26, can you elaborate on what is meant by "large-scale social justice interventions on buildings."

A67. Art installations, murals, etc. in public spaces.

Q68. Can you clarify in 4.1.1 "The bidder must provide a minimum of three verifiable references that can substantiate the quality of the bidder's work and service. References should be from clients in which the bidder provided similar work as that requested in this RFP with combined annual billings at or above \$2,000,000." Does this mean that each reference must be associated with \$2M worth of work by us?

A68. No, the minimum three references must verify a total of \$2 million annually combined.

Q69. Is there any existing work or an existing campaign that we should be aware of?

A69. Please refer to A38.

Q70. Is there any existing research or data that will be provided?

A70. DHR uses and can share publicly available data/reporting from federal/state government agencies, as well as published reports from nonprofits and community-based organizations.

Q71. What will the approval process and workflow look like from the NYS side?

A71. Once the apparent awardee has been identified, the formal contract agreement will be sent to the vendor for signature, then to the NYS DHR for signature, then to the NYS Attorney General for approval, and finally to the NYS Comptroller for approval.

Q72. Will other marketing partners be involved? For example, a media agency?

A72. DHR may use a media buying agency for placement of creative content.

Q73. Will other parties be involved in approvals? For example, NGOs or other government agencies?

A73. Please refer to A71.

Q74. Is it possible to share Budget range(s) for Creative, Production, and Media? Understanding even a broad budget range will help us craft a better plan and response to the RFP.

A74. Please refer to A5.

- Q75.** There are roles defined in the staff plan that are requirements for the agency to fulfill. Are we allowed to deviate from this, if we feel the project/scope warrants different resources? Are LinkedIn links sufficient (versus supplying the resumes of all staff working on the business)?
- A75.** Equivalent titles other than those proposed in Section 2.4 – Staffing Requirements/Key Personnel can be proposed, as long as the requirements for those titles are still met. Resumes are required as part of the technical submission; LinkedIn links are not sufficient.
- Q76.** As mentioned, the State team would interview the staff working on their business, is this something that would happen post RFP or during the RFP Process?
- A76.** Staff interviews will occur post award.
- Q77.** Is there an incumbent agency and if so, for how long?
- A77.** No.
- Q78.** For each deliverable that requires ongoing work – for example, managing social profiles or the blog – should we assume the agency would be responsible for day to day management of those channels for 1 year?
- A78.** Yes, DHR staff will manage social media after one year if DHR does not exercise the option to extend the Contract.
- Q79.** For both paid and owned social - how many platforms should we assume when considering a plan and resulting budget? For example: Facebook, Instagram, YouTube, TikTok, X, Snap, Blog.
- A79.** The vendor should develop content for a variety of social media platforms, including Facebook, Instagram, YouTube, and/or X/Twitter.
- Q80.** For reporting, should we assume monthly and quarterly reports and read outs?
- A80.** Yes.
- Q81.** For the website/microsite work, are there any existing technology platforms that we should be aware of? Are there any policies around ADA (what level of WCAG compliance?) and security that we should be aware of?
- A81.** DHR is open to a variety of options. The agency's website currently uses Acquia's SiteFactory. All content should be accessible.
- Q82.** What is the annual budget or budget range for this project? And if you're not able to share a budget for the upcoming assignment, would you share what you have historically spent over the past three years?

No budget on an RFP this complex and far reaching is a puzzling prospect. Without clarity on this critical formal constraint on the work to be done, it'll be very difficult to properly scope. The deliverables outlined in this RFP could be accomplished successfully for less than 1 million or 5 million, or 20 million, but how you would set out to have an impact will likely be dramatically different depending on these different budget scenarios. Also, as the issuer of the RFP, you may find it a challenge to assess the relative merits of widely ranging budget proposals, and the time and effort of all bidders not working within your unstated sweet spot may be better spent elsewhere.

A82. Please refer to A5.

Q83. How many agencies were invited to bid on this? Can you give an estimate?

A83. Over 100 firms were notified of this opportunity.

Q84. Is there an incumbent or current agency? If there is, are they bidding or excluded from the bidding process?

A84. Please refer to A77.

Q85. What are the key metrics by which the efficacy of the campaign will be measured? (Re: page 11, section 2.2.8, Deliverable 8: Measuring Impact and Reporting)

A85. Please refer to A30.

Q86. What is the overall budget for this campaign?

A86. Please refer to A5.

Q87. What is the expected media purchasing budget for this campaign?

A87. Please refer to A5.

Q88. Will the micro-campaigns have their own budget or will they be part of the overall campaign budget?

A88. They must be part of the overall campaign budget.

Q89. Is there existing research and data that will be made available to the selected contractor to guide development and strategy of the creative content?

A89. Please refer to A70.

Q90. Can you clarify what "build" refers to in section A: "contractor shall build content on HBPU website and/or campaign microsite". Does this mean development? Design? Copywriting?

A90. DHR is open to a variety of options from its vendor, including website development, the development of creative assets, and copywriting.

Q91. Can you clarify what “develop” refers to in sections C and D: “Contractor shall develop special pages with topics of interest.” and “Contractor shall develop new blogs and posts on HBPU social media pages.”. Does this mean planning for, designing, and writing, or does this literally mean website development? What is the scope of the website portions of this campaign for this contractor?

A91. Please refer to A90.

Q92. Will the contractor be responsible for obtaining permits and permissions for art and cultural commissions in sections A and B? (Use of public exhibit space, buildings, etc.)

A92. Yes.

Q93. Will the artists in sections D who the contractor curates be paid for their work, and will their payment come out of the campaign budget?

A93. Please refer to A8.

Q94. Will crisis PR and media training be needed as part of the Rapid Response toolkit?

A94. No. Copywriting, graphic design, etc. of written materials and handouts is required.

Q95. What is the makeup of the team, subject matter experts and resources available at the Division of Human Rights to shape/guide prevention strategies and resources available as part of the toolkit development?

A95. DHR has a Hate and Bias Prevention Unit that will be the primary liaison for the vendor and will connect the vendor with other subject matter experts as well.

Q96. Alternatively, are you seeking consult from the selected partner to develop those strategies and identify resources for the toolkit?

A96. No.

Q97. What are the key performance indicators for this campaign?

A97. Please refer to A30.

Q98. How will you define success for this campaign?

A98. Please refer to A30.

Q99. What is the size of your organization (including salaried and hourly employees) and/or the size of the population being served?

A99. The target audience is New York State as a whole - over 20 million people. DHR currently has over 170 employees.

Q100. What is your anticipated decision date or timeframe?

A100. Please refer to RFP Section 5.3 – Term of Contract.

Q101. What is the project timeline?

A101. Please refer to A100.

Q102. Confirming the link provided in paragraph two is the only location to access any addenda that are issued?

A102. Yes. All Addenda will be posted to the OGS Bid Calendar page at:
<https://ogs.ny.gov/procurement/bid-opportunities>

Q103. We are a privately held organization, what would NYS accept outside of a report of annual billings?

A103. Any report showing a minimum of \$2 million in annual billings for the last five years is acceptable.

Q104. What is the total budget allocated to this project?

A104. Please refer to A5.

Q105. Confirming there is opportunity for extension or renewal of contract.

A105. Confirmed, solely at the discretion of DHR.

Q106. Appendix E - EEO Requirements - Will NYS provide PDF fillable version for this required document?

A106. No.

Q107. Appendix F - SDVOB Requirements - Will NYS provide PDF fillable version for this required document?

A107. No.

Q108. Attachment 1 – Cost Proposal - Will NYS provide PDF fillable version for this required document?

A108. No.

Q109. Are there success metrics, goals, and/or desired behaviors for this campaign?

A109. Please refer to A30.

Q110. What is most important to you in a creative partnership such as this?

A110. A variety of creative ideas for a campaign, and overall responsiveness.

Q111. Have you defined target segments/personas for this campaign (including demographics, behaviors, attitudes, etc.) to whom we should target messaging? Or will that discovery need to be conducted?

A111. The vendor may look over publicly available data in developing a strategy. However, it's been widely reported that bias has increased towards certain communities: AAPI, Arab/Muslim, Black, Jewish, LGBTQ+, etc. populations.

Q112. Are there any insights/lessons learned from past campaigns that are worth sharing?

A112. In interviews with government entities that have executed campaigns, DHR has received feedback that the need to "denormalize" hate in an individual's daily life was invaluable.

Q113. Is there a prioritization of communities?

A113. Please refer to A26.

Q114. What communities/regions make up the HBPU?

A114. DHR's Hate and Bias Prevention Regional Councils are composed of community-based organizations, affinity groups, faith-based entities, and local government human rights commissions from all communities throughout the state.

Q115. Will the contractor be responsible for the translation of all materials? If so, what are the language preferences?

A115. No. Please refer to A3.

Q116. Will in-person translation services be required? If so, what languages? American Sign Language?

A116. No. Please refer to A3.

Q117. [2.1] Services, page 8:

- a) Are there examples of cultural art interventions?
- b) Section D– the events references: does HBPU host these events, events HBPU attends or is the contractor responsible for identifying which events to attend? In either case, what is our role? Are we to organize the event, staff it, or create materials for it?
- c) Section E – what is the specific scope for "developing educational materials."

A117. a) The LA vs Hate campaign (<https://www.lavshate.org/>), the LA is for All campaign (<https://civilandhumanrights.lacity.gov/laforall/thecampaign>), the I Still Believe in Our City campaigns (<https://www.nyc.gov/site/cchr/media/pair-believe.page>) are among such models.

- b) DHR, in partnership with the community-based organizations that make up its regional councils, will decide to host an event. The vendor will organize such events and programming, develop creative materials for the program (backdrops, podium signage, promotional materials for the programming such as flyers, social media assets, etc.)
- c) Interviewing subject matter experts that will be provided by DHR, copywriting, layout, etc.

Q118. [2.2.1] Deliverable 1: Strategy and Creative Content, page 8:

- a) Section C – which social media platforms are expected? Or are these to be recommended by the contractor?
- b) Is the contractor the platform administrator, or are we handing off assets and schedules?
- c) Is the contractor the social media community manager?
- d) What is the expected post frequency for social media?
- e) Will monitoring and responding be the contractor's responsibility?
- f) Section D – will article content be provided, or is the contractor responsible for copywriting?
- g) How many articles are expected, and at what frequency?
- h) Can articles be curated from credible sources?
- i) Does the response strategy need to include any other tactics?
- j) Section E – what is the expected timing for micro-campaigns?
- k) How many can be expected per year?
- l) What types of art interventions are envisioned by the Division of Human Rights?
- m) Section G – “comprehensive plan to address how the plan” – please expand on the plans mentioned and what they relate to.
- n) Will the chosen contractor be creating the messaging?
- o) Section H – what is the scale of the toolkits, and who are the target audiences?
- p) Section I – Are these general focus groups, or will these be specific to communities?
- q) One focus group, or will there need to be specific groups representing specific demographics?
- r) Will focus groups be conducted for all micro-campaigns as well?
- s) Will focus groups be needed in multiple languages?

A118. a) Please refer to A79.

b) Please refer to A78.

c) Please refer to A78.

d) DHR is open to suggestions from the vendor in this regard.

e) No.

f) Content and information will be provided by DHR staff and other subject matter experts. Copywriting/editing will be provided by the vendor.

g) DHR is open to suggestions from the vendor in this regard.

h) No.

i) No.

j) DHR is open to suggestions from the vendor in this regard.

k) At least one in each of the ten regions of the state.

l) Please refer to A66.

m) DHR seeks a comprehensive communications plan for the execution of its overall hate and bias prevention efforts.

n) Yes.

o) DHR is open to suggestions from the vendor in this regard. Each toolkit will be developed to a specific regional audience, or for a specific purpose, as described in RFP Section 2.2.7 - Deliverable 7: Creation of Program Toolkits.

p) These may be community specific, and will be composed of stakeholders from community-based organizations, faith-based entities, etc.

q) DHR is open to suggestions from the vendor in this regard.

r) No.

s) No.

Q119. [2.2.2] Deliverable 2: Key Creative Tactics, page 9:

- a) Section A – is the contractor responsible for the Earned Media Plan?
- b) Can HBPU's creative strategies be shared?
- c) What are examples of micro art/cultural interventions in which HBPU is interested?
- d) Section B – is there a budget to be mindful of for low-cost publicity options?

A119. a) Yes.

b) In general, DHR/HBPU seeks to develop creative assets/content that can be used on a variety of platforms such as social media, TV, etc. Additionally, the agency seeks the organization of public programming, events, public art installations, etc.

c) Please refer to A117a.

d) No.

Q120. [2.2.3.] Deliverable 3: Digital Engagement, page 10:

- a) Are there pre-existing partners to leverage for "no-cost opportunities"?
- b) Does HBPU have relationships with existing no-cost opportunities?
- c) Does HBPU have a media buying agency that will be a partner during this engagement?

- d) Has a Media Budget for 2024 been established? Can this be shared?
- e) What is the anticipated volume of digital assets that will be required?
- f) Will the Agency connect the contractor with State agency contacts governing OHO (e.g., privately-owned or state-owned and operated bus bench and personnel)?

A120. a) These are limited but may include OOH advertising platforms controlled by government entities.

b) Please refer to A120a.

c) DHR may engage in a media buying agency.

d) No.

e) DHR is open to suggestions from the vendor in this regard.

f) Yes.

Q121. [2.2.4] Deliverable 4: Website and Social Media sites, page 10:

- a) Section B – what are past examples of “special events.”?
- b) Section C – how many “special pages”?
- c) Section D – how many new blogs and posts on HBPU’s social media pages?
- d) Will the contractor be responsible for uploading content and maintaining the site?

A121. a) Example here: <https://www.governor.ny.gov/new-york-state-unity-summit/new-york-state-unity-summit>

b) DHR is open to suggestions from the vendor in this regard.

c) DHR is open to suggestions from the vendor in this regard.

e) No.

Q122. [2.2.5] Deliverable 5: Ephemera production & distribution, page 10:

- a) Section A – How many expected solidarity events?
- b) Section B – How many expected media and special events?

A122. a) At least one for each of the ten regions of the state.

b) One.

Q123. [2.2.6] Deliverable 6: Community engagement – art & cultural commissions, page 10:

- a) Section C: will the contractor be responsible for identifying and negotiating for exhibit spaces?

A123. Yes, in partnership with HBPU and regional council stakeholders.

Q124. [2.2.7] Deliverable 7: Creation of Program Toolkits, page 11:

- a) Are the toolkits digital and/or physical?
- b) Will the contractor be responsible for producing and distributing toolkits?
- c) Section A - are the "eleven rapid response toolkits" individualized for each council or just 11 copies?
- d) Section B-E – are duplicates needed for each design? If so, how many?

A124. a) DHR is open to suggestions from the vendor in this regard.

b) The vendor will be responsible for production (copywriting, editing, layout, graphics). Toolkits will be promoted on social media and distributed by DHR.

c) Individualized.

d) DHR is open to suggestions from the vendor in this regard.

Q125. [2.2.8] Deliverable 8: Measuring Impact and Reporting, page 11

- a) Section A – is there a preference of region/community for the 10 interventions?
- b) Can you define art and cultural interventions?
- c) Section B & C – What key metrics are we trying to measure?
- d) Are there specific KPIs we are trying to move the needle on? If so, what are those?
- e) Section D – will there be a stipend provided for the artist? If so, should the proposer factor this into their budget?
- f) Will the proposer utilize the HBPU platforms to disseminate the survey?
- g) Who is the target audience for the research and campaign?
- h) Are there any specific demographics/regions/communities to dig into with the research?
- i) Regarding frequency, how often and when should community surveys be conducted?

A125. a) At least one for each of the ten regions of the state.

b) Please refer to A66.

c) Please refer to A30.

d) Please refer to A97.

e) No, the vendor should include all anticipated costs in their proposal.

f) Yes, DHR will host any surveys on its platforms.

g) Please refer to A63.

h) Please refer to A26.

i) One survey is sufficient.

Q126. Is there an incumbent firm under contract with NYSDHR or under contract with NYSOGS on behalf of NYSDHR that can perform these services?

A126. Please refer to A77.

Q127. Regarding 2.2.1 Deliverable 1, will the creation of creative content be driven by guidance and messaging established by DHR, or will the contractor be required to “start from scratch” and create this messaging?

A127. Vendor can interview DHR staff and partnered community-based organizations to develop messaging. However, all messaging, creative content, etc. will be from “scratch.”

Q128. In order to satisfy 2.2.1.G, can we have access to the HBPU's hate and bias prevention messaging?

A128. Yes, vendor may access all existing public facing materials.

Q129. What are the specific programs HBPU wants supported by the contractor? (2.2.1.H)

A129. Please refer to RFP Section 1.1 – Overview of the New York State Division of Human Rights.

Q130. What is the total budget for this project, including production of artwork and digital content, printing, strategy, and paid media placements?

A130. Please refer to A5.

Q131. Can you provide more detail about what constitutes an art project according to 2.2.2.B and 2.2.2.C?

A131. Please refer to A66.

Q132. Will contractor be required to build a website?

A132. Please refer to A90.

Q133. Can you define a cultural intervention (2.2.6.a)?

A133. Please refer to A67.

Q134. Are contributing artists going to be paid for their work by NYSDHR or the contractor, and is there a budget for this deliverable?

A134. Please refer to A8.

Q135. Is there a budget range in mind for the work needed in this RFP?

A135. Please refer to A5.

Q136. Is the expectation for the cost proposal to be all-inclusive of out-of-pocket costs?

A136. Yes.

Q137. Who is handling media planning and buying, and is there an opportunity to impact the media placements based on creative concepts?

A137. DHR will use a media buying firm available under existing state contract. Any suggestions on media placement are welcome.

Q138. What are the language needs of the campaign?

A138. Please refer to A3.

Q139. Will you provide a detailed breakdown of the primary target markets and geographic areas within New York State where HBPU aims to focus the campaign efforts? Additionally, what are the primary audiences and markets?

A139. Please refer to A63.

Q140. What level of audience, market and cultural insights can we anticipate will be provided by HBPU?

A140. DHR/HBPU will share publicly available data on New Yorkers impacted by hate or bias.

Q141. How many community micro-campaigns should we be expected to address?

A141. DHR is open to the vendor's proposal but anticipates messaging to AAPI, Arab/Muslim, Black, Jewish, LGBTQ+, etc. populations.

Q142. How would you define an "intervention"? Would you qualify this as a non-traditional approach to the campaign execution or installation?

A142. Please refer to A67.

Q143. Can the focus groups be digital?

A143. Yes.

Q144. Does the DHR have existing relationships with social media outlets & Out of Home Placement vendors for no cost placement opportunities?

A144. Please refer to A120a.

Q145. Would a wordpress microsite on a new domain name be acceptable for this need? Are there any specific site requirements we should take into consideration? Would we handle hosting?

A145. DHR is open to a variety of options in this regard.

Q146. What does distribution to HBPU consist of? Is it one location, or multiple locations?

A146. In reference to RFP Section 2.2.5.c, sample items will be delivered to HBPU at the DHR's central offices in the Bronx. Backdrops and event materials will be delivered to event locations as needed.

Q147. What markets will this minimum of 10 art and cultural interventions need to be located? Will there be multiple interventions in one market?

A147. New York State is composed of ten regions (<https://esd.ny.gov/regions>). There will be at least one event per region.

Q148. Can you provide more detail on the meaning of a Rapid Response toolkit?

A148. Please refer to A49.

Q149. Is there only one round of reviews for creative deliverables? Or should we expect multiple rounds of reviews from key stakeholders?

A149. Stakeholders, consisting of representatives from community-based organizations and faith-based entities, will have one round of review. There may be multiple rounds from New York State government entities.

Q150. How many stakeholders are there reviewing and approving the work deliverables?

A150. Please refer to A149.

Q151. What is the budget for this campaign?

A151. Please refer to A5.

Q152. Are advertising costs included in this budget?

A152. Please refer to A5.

Q153. What is the start date or project run time?

A153. Please refer to A100.

Q154. What is the length of the engagement?

A154. Please refer to A100.

Q155. Is there a separate budget for market research?

A155. Please refer to A5.

Q156. Are there specific target areas/communities for this campaign?

A156. Please refer to A63.

RFP 2818 - Marketing, Advertising, and Public Relations Services for the Diversity, Equity, Inclusion and Tolerance Public Awareness Campaign

All other terms and conditions remain unchanged.

If submitting a proposal, this Addendum #1 for RFP# 2818 must contain an original signature, be dated, attached to, and made a part of your proposal.

Company Name_____

Address (include City, State, Zip)_____

Bidders Name (please print)_____

Title_____

Signature_____

Date_____



Request for Proposals (RFP) # 2818

Solicited by the

**New York State Office of General Services on behalf of
New York State Division of Human Rights**

for

Marketing, Advertising, and Public Relations Services for the Diversity, Equity, Inclusion and Tolerance Public Awareness Campaign

ISSUE DATE: November 30, 2023

PROPOSAL DUE DATE: December 21, 2023, at 2:00pm EST

Primary Contact:

Paige Corning
Contract Management Specialist II
Phone: 1-518-474-8209
Email: Paige.Corning@ogs.ny.gov

Alternate Contact:

Erin Datri
Procurement Manager I
Phone: 1-518-474-5981
Email: Erin.Datri@ogs.ny.gov

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1. Introduction

1.1 Overview of the New York State Division of Human Rights

The New York State Division of Human Rights (DHR) is dedicated to eliminating discrimination, remedying injustice, and promoting equal opportunity, access, and dignity through enforcement of Human Rights Law. DHR works to accomplish this mission by investigating, prosecuting, and adjudicating discrimination complaints; educating the public about their rights and responsibilities under the Human Rights Law; proposing policy and legislation; and building community.

Under Governor Kathy Hochul's leadership, DHR recently launched a new Hate and Bias Prevention Unit (HBPU) that will take a community-driven approach to prevent and respond to hate and bias incidents throughout the state. HBPU will have two primary components: (1) A statewide network of HBPU Regional Councils comprised of local stakeholders, which will lead efforts in building community through education, outreach, mobilization, and engagement; and (2) A Rapid Response Team, which will offer coordinated and community-focused response to hate and bias incidents across the state.

Pursuant to Executive Law Article 15 Section 294-a, DHR is mandated to develop and implement a statewide campaign to increase awareness and promote the acceptance, inclusion, tolerance, and understanding of the diversity of people of New York State, including but not limited to diversity based on religion, race, color, creed, sex, ethnicity, national origin, age, disability, sexual orientation, and gender identity or expression. DHR's HBPU will lead the implementation of this initiative. In the development and implementation of this campaign, DHR is required to *"...adopt as its purpose, the combating of bias, hatred and discrimination in all their forms and the prevention of discrimination, based on religion, race, color, creed, sex, ethnicity, national origin, age, disability, sexual orientation, gender identity and expression."*

The purpose of this RFP is to retain one contractor to provide comprehensive marketing, advertising, public relations services utilizing digital arts and cultural art interventions.

1.2 Designated Contacts

In compliance with the Procurement Lobbying Law, Paige Corning, Contract Management Specialist II, OGS Division of Financial Administration, Agency Procurement Office, is designated as the PRIMARY designated contact for this Solicitation and may be reached by e-mail or voice for all inquiries regarding this Solicitation at:

Paige Corning, Contract Management Specialist II
New York State Office of General Services
Financial Administration / Agency Procurement Office
32nd Floor, Corning Tower, Empire State Plaza
Albany, New York 12242
Voice: 518-474-8209
E-mail: Paige.Corning@ogs.ny.gov

In the event the PRIMARY designated contact is not available; the alternate designated contact is:

Erin Datri, Procurement Manager I
New York State Office of General Services
Financial Administration / Agency Procurement Office
32nd Floor, Corning Tower, Empire State Plaza
Albany, New York 12242

Voice: 518-474-5981
E-mail: Erin.Datri@ogs.ny.gov

For inquiries related specifically to the Minority Women-Owned Business Enterprises (MWBE) requirements of this Solicitation, the designated contact is:

Joshua Quiles, Compliance Specialist II
New York State Office of General Services
Office of Business Diversity / MWBE
29th Floor, Corning Tower Bldg., Empire State Plaza
Albany, NY 12242
Voice: 1-518-408-0432
Email: OGS.sm.MWBE@ogs.ny.gov

For inquiries related specifically to the Service-Disabled Veteran Owned Businesses (SDVOB) requirements of this Solicitation, the designated contact is:

New York State Office of General Services
Division of Service-Disabled Veterans' Business Development
32nd Floor, Corning Tower, Empire State Plaza
Albany, New York 12242
Voice: 518-474-2015
E-mail: veteransdevelopment@ogs.ny.gov

For inquiries related specifically to insurance requirements of this Solicitation, contact:

New York State Office of General Services
Bureau of Risk and Insurance Management
32nd Floor, Corning Tower Bldg., Empire State Plaza
Albany, New York 12242
Voice: 518-473-0310
Email: ogs.sm.insrev@ogs.ny.gov

1.3 Key Events

The table below outlines the tentative schedule for important action dates.

Action	Date
OGS Issues RFP 2818	November 30, 2023
Deadline for Submission of Proposer Questions	December 6, 2023
OGS Issues Responses to Written Questions (estimated)	December 8, 2023
Proposal Due Date	December 21, 2023
Oral Presentations (estimated)	Week of January 8 – 12, 2024
Contract Start Date	Upon OSC approval

1.4 Minimum Proposer Qualifications

Proposers are advised that the State's intent is to ensure that only responsive, responsible, qualified and reliable Contractors enter into a contract to perform the work as defined in this document.

The State considers the following qualifications to be a pre-requisite in order to be considered as qualified Proposer for purposes of the Solicitation. Proposers not meeting the qualifications below will be disqualified. Proposers may not use a Subcontractor's or any other entity's qualifications to meet requirements.

The minimum requirements listed below **must** be met by each Proposer:

- A. Proposing firms must be actively engaged and have continuous professional experience in the Advertising Industry for the last five years; and
- B. Proposing firms must have experience in Social Justice, Anti-Hate, Diversity, Equity, Inclusion or Rights Based campaigns; and
- C. Proposing firms must have a minimum of \$2 million annual client billings for each of the last five years, specifically for performing work in the Advertising Industry.

1.5 Glossary of Terms

"Advertising Industry" shall mean an industry that creates and manages the connection between companies, agencies, products, and consumers, translating their clients' messages into effective campaigns.

"Contractor" shall mean a successful Bidder awarded a contract pursuant to this Solicitation.

"Deliverables" shall mean those actions, items, or materials delivered as part of the performance of the Services by the Contractor as defined in this Solicitation or the contract resulting therefrom.

"DHR" shall mean the New York State Division of Human Rights.

"DHR Commissioner" shall mean the Commissioner of the Division of Human Rights or their duly authorized representative.

"Issuing Office" shall mean the Office of General Services Division of Financial Administration, Agency Procurement Office.

"OGS" shall mean the New York State Office of General Services.

"OGS Commissioner" shall mean the Commissioner of the Office of General Services or their duly authorized representative.

"OSC" shall mean the Office of the New York State Comptroller.

"Proposer", "Bidder" or "Offeror" shall mean any person, partnership, firm, corporation, or other authorized entity submitting a proposal to the State pursuant to this Solicitation.

"Request for Proposal", "RFP", or "Solicitation" shall mean this document.

“HBPU Regional Council” shall mean the ten Councils representing every region across the State, comprised of a network of diverse stakeholders and community leaders that are working together to build prevention efforts in combating hate and bias incidents.

“Services” shall mean the tasks assigned to the Contractor as provided in this Solicitation or the contract resulting therefrom.

“State” shall mean The People of the State of New York, which shall also mean the New York State Office of General Services.

“Subcontractor” shall mean a third-party Contractor hired by the Contractor to perform services pursuant to this Solicitation.

2. Scope of Services

2.1 Services

The goal of this RFP is to retain one contractor to provide comprehensive marketing, advertising, public relations services using digital arts and cultural art interventions to meet the following goals:

- A. Create and launch a culturally focused statewide campaign to combat hate, bias, and discrimination and inspire people to stand up to it by promoting acceptance, inclusion, tolerance and understanding of the diversity of people in New York State.
- B. Empower individuals and communities to stand against hate and bias by building understanding on what constitutes hate acts, bias incidents, and their impact on individuals and communities.
- C. Educate communities on the importance of reporting hate and bias incidents and understand that efforts provided to tracking and reporting of such incidents may yield to resources that can be allocated to build safe, respectful, and resilient communities.
- D. Work in coordination with HBPU's Regional Councils, Rapid Response Team, and Youth Initiatives (youth programming that will be developed under HBPU) by engaging individuals and communities through public arts, public events, and programming.
- E. Develop educational materials that can be published on DHR's website and utilized in social media campaigns or other means of reaching the public.

The selected contractor shall provide comprehensive campaign strategies, marketing, advertising, and public relations services as requested and authorized by the Division, including, but not limited to the deliverables listed in **Section 2.2**.

2.2 Deliverables

2.2.1 Deliverable 1: Strategy and Creative Content

- A. Contractor shall build and develop strategy and creative content for a culturally engaging statewide campaign that increases awareness and promotes acceptance, inclusion, tolerance, and understanding of the diversity of the people of New York State and empowers communities to heal from and combat hate and bias.
- B. Contractor shall create artwork and messaging for the campaign that resonates with communities across New York State. Artwork and messaging should be adaptable to reach via paid advertising, promotional events, consumer materials and social media accounts.
- C. Contractor shall create and manage a digital and social media strategy plan that helps spread the campaign's message. This plan should include, but not be limited to, creating quality content for posts, ensuring content is easily shareable, amplifying and highlighting campaign events, identifying influencers to help spread the campaign's message, and providing feedback to responses made by followers of HBPU and the campaign.
- D. Contractor shall engage in coordinated digital, online and print response strategy that includes publishing articles on HBPU to be used by traditional print media, online news sites, agencies, partners, and organizations.

- E. Contractor shall execute micro-campaigns focusing on communities that have been targeted by hate and bias. As part of this micro-campaign strategy, Contractor shall provide a plan for how it will develop additional art interventions, including partnerships with State, City and non-profit agencies and different business sectors to leverage HBPU's digital campaign messaging using art. Contractor shall outline what mechanisms it will use to document art/cultural interventions and will outline how it will capture qualitative impact, such as number of attendees, views or number of residents engaged in the cultural interventions.
- F. Contractor shall build HBPU's proprietary library of core visuals and creative tools as part of messaging strategy. Contractor shall discuss how it will develop, and the minimum number of proprietary arts it will design, for use in a variety of media, whether digital art, website options, merchandise, art and cultural interventions. Contractor shall provide a comprehensive plan for use of this creative art.
- G. Contractor's campaign messaging shall include a comprehensive plan to address how the plan will support HBPU's hate and bias prevention messaging. Hate and bias prevention messaging can include messaging aimed at preventing hate or bias directed against any protected characteristics under the Human Rights Law, including religion, race, color, creed, sex, ethnicity, national origin, age, disability, sexual orientation, and gender identity or expression.
- H. Contractor's strategy shall include how it will support HBPU programs, including how to create art/culturally based toolkits that will support the program's prevention strategies.
- I. Contractor shall conduct research prior to the campaign's concept development, test campaign assets in close to final form to a focus group and collect focus group feedback on the campaign and its creative assets. This feedback should be provided to HBPU in a written report and de-brief meeting. The findings of this report will be used for campaign optimization.

Approval for payment of Deliverable 1 will be based upon completion of the proposed campaign plan, its creative assets, and all associated planning documents required in Deliverable 1.

2.2.2 Deliverable 2: Key Creative Tactics

Contractor shall use concepts including the following:

- A. Earned Media Plan which will use HBPU creative strategies to promote micro art/cultural interventions; website events; traditional press releases and advisories for press conferences; public service announcements; or rapid response plans to address specific hate acts.
- B. Contractor shall use non-traditional, low cost or no-cost publicity options, including: i) art from large interventions or murals, reprinted in poster size and used as "wheat paste" mini-murals installations Statewide, ii) posters installed in public kiosks, bus shelters, metro train ads, or the DHR-HBPU website.
- C. Contractor shall make available art pieces for free when downloading as digital gifs or stickers or printed as window signs, lawn signs, or posters by New York residents.

Approval for payment of Deliverable 2 will be based upon completion of the art pieces installed and made available to DHR.

2.2.3 Deliverable 3: Digital Engagement

Contractor shall build and expand a digital campaign using paid and unpaid social media ads, or by leveraging no cost opportunities through partnerships with social media outlets, Out of Home Placement (OHO) outdoor venues such as bus benches, digital billboards and other such venues.

Approval for payment of Deliverable 3 will be based upon completion of the digital campaign as it relates to social media and OHO venues.

2.2.4 Deliverable 4: Websites and Social Media Sites

- A. Contractor shall build content on HBPU website and/or campaign microsite.
- B. Contractor shall use these websites to promote special events.
- C. Contractor shall develop special pages with topics of interest.
- D. Contractor shall develop new blogs and posts on HBPU social media pages.

Approval for payment of Deliverable 4 will be based upon completion of campaign specific website, blogs and posts.

2.2.5 Deliverable 5: Ephemera Production & Distribution

- A. Contractor shall design and produce a range of marketing products including designs and varieties of T-shirts, masks, stickers, lawn signs, pens, pencils, coloring books, hats, posters, or tablecloths for distribution at community table events, school events, or other solidarity events offered by HBPU Regional Councils.
- B. Contractor shall create and produce products suitable to serve as HBPU photo opportunity products for use at media and special events, such as photo backdrops, table tents, or podium-use HBPU logos.
- C. Contractor shall create and have these items produced, in minimum order amounts, and distributed to HBPU.

Approval for payment of Deliverable 5 will be based upon the production of the marketing products.

2.2.6 Deliverable 6: Community Engagement – Art & Cultural Commissions

- A. Contractor shall create, design and install a minimum of 10 art and cultural interventions to promote the message of HBPU.
- B. Contractor shall use public exhibit space; large scale social justice interventions on buildings; and/or art exhibitions.
- C. Contractor shall exhibit art/cultural commissions whenever possible. Art and cultural interventions will be located in high traffic, high-profile and high-value environments.
- D. Contractor shall curate a diverse set of artists that reach and energize vital cultural communities seen as target audiences for the HBPU Program, such as: Spoken Word Poets; Shoe Artists; Art Installation Artists; Muralists; Sign Painters.

Approval for payment of Deliverable 6 will be based upon completion of the art and cultural interventions and the curation of artists.

2.2.7 Deliverable 7: Creation of Program Toolkits

Contractor shall assist in the design and creation of toolkits that will support HBPU's prevention strategies. Examples of these prevention strategies may include such topics as:

- A. Creation of eleven Rapid Response toolkits (one statewide and one for each HBPU Regional Council) to provide information on hate and bias incidents and resources available to members of the public impacted by these incidents.
- B. Creation of one toolkit for state, city, and non-profit partners to use during in conjunction with HBPU events and campaigns.
- C. Creation of one toolkit for small businesses impacted by hate and bias, including information about how these businesses can partner with HBPU Regional Councils to promote customer safety and inclusivity.
- D. Creation of one toolkit for schools to address hate and bias motivated bullying and create a welcoming, inclusive, and safe school environment.
- E. Creation of one toolkit for provision of "Bystander and Upstander Trainings" which provide strategies for safely defusing hate or bias acts happening in public settings.

Approval for payment of Deliverable 7 will be based upon completion of the toolkits.

2.2.8 Deliverable 8: Measuring Impact and Reporting

- A. Contractor shall design and build a reporting structure that provides consistent and ongoing feedback to DHR and HBPU.
- B. Contractor shall design and build a dashboard that enables all stakeholders to track HBPU's and Regional Council's progress on key metrics related to impressions and engagement. Contractor shall provide monthly and annual progress reports.
- C. Contractor shall evaluate and measure the impact of the campaign.
- D. Contractor shall design, create, and conduct community surveys and utilize the tool to build engagement and presence in HBPU's Regional Councils members and communities.

Approval for payment of Deliverable 8 will be based upon completion of the dashboard and results of community surveys.

2.2.9 Acceptance of Deliverables

The Contractor shall request written approval and acceptance of final Deliverable product(s) by the designated DHR Representative over email. Deliverables must successfully meet expected quality as well as contract requirements. The DHR Representative will have 15 business days to approve or reject Deliverable products. In no event will the Deliverable products be automatically accepted. If a Deliverable product is rejected, the cause for rejection and all defects to be addressed will be documented and provided to the Contractor. Identified defects shall be addressed by the Contractor, within 15 business days, to the satisfaction of DHR. The corrected Deliverable product(s) shall be resubmitted by the Contractor to the DHR Representative for approval. There shall be no verbal acceptance or acceptance by default.

2.2.10 Ownership of Contract Deliverables

All materials produced, created, improved, maintained or conceived by the Contractor for DHR during the term of the Agreement, including but not limited to any software, website creation and development, documentation, products, materials, advertising for television, radio, print, internet or other media, and deliverables which result from services rendered by the Contractor to the DHR shall be turned over to the DHR within 90 days of the expiration of the Agreement, or within 30 days of early termination of the Agreement, at no additional cost to DHR. DHR shall own all the rights, title, and interest in the said material.

2.3 Project Management Requirements

The Contractor is expected to manage the deliverables within the Scope of Contract. Project management includes, but is not limited to, the following items:

- A. Designating a Project Manager to oversee the deliverables and continuous services within the contract and meet with DHR-HBPU Project Manager as outlined in this Statement of Work.
- B. Providing and implementing a well-organized and complete plan for all deliverables;
- C. Providing competent and qualified experts in all technical and administrative areas;
- D. Meeting the terms of the Contract in a cost-competitive manner within the stated specifications, budget, and schedule;
- E. Monitoring resources and expenditures to ensure fulfillment of deliverables and objectives within the approved budget;
- F. Monitoring and tracking quality of performance, staff, subcontractors, and other relevant factors to ensure contract compliance and excellence;
- G. Responding to the identified workload in a timely manner and consistently meet all Deliverable and event deadlines;
- H. Identifying and reporting problems in a timely manner and recommend and implement solutions;
- I. Meeting with DHR-HBPU staff as required by HBPU Project Manager to discuss progress, needs, problems, solutions, and deliverables;
- J. Understanding and complying with DHR's administrative processes and procedures; and
- K. Obtaining approval from the DHR Project Manager for any replacement, substitution, or addition of key personnel under the Contract.

2.4 Staffing Requirements/Key Personnel

The following titles, or equivalent to, are identified as key personnel necessary to fulfill the duties of this RFP.

DHR may interview candidates prior to approval. DHR may also approve or disapprove any proposed changes in Key Personnel or require the removal of any Contractor employee or subcontractor employee found unacceptable by NYS.

DHR has an absolute right and discretion to approve or disapprove any proposed staff and changes in staff. The Contractor shall notify DHR of any proposed changes in staff immediately. DHR shall be provided a summary of experience of any proposed substitute and shall have an opportunity to interview that person, prior to giving its approval or disapproval. Any substitute staff provided by Contractor shall have equal or better qualifications than staff being replaced. Approval of proposed staff or changes shall not be unreasonably withheld.

DHR reserves the right to request removal of any Contractor staff or subcontractor staff if, in DHR's discretion, such staff is not performing in accordance with the contract awarded as a result from this RFP.

Title	Requirements for Role
<p><u>Project Manager</u></p> <p>Minimum three years of relevant experience with a preference for experience in the field of communications, creative media, and marketing services.</p>	<p>Leads oversight on all contract responsibilities including budget negotiations and contract compliance</p>
<p><u>Account Supervisor</u></p> <p>Minimum five years of relevant experience with a preference for experience in the field of communications, creative media, and marketing services.</p>	<p>Leads creative and strategic planning for contract</p>
<p><u>Account Executive</u></p> <p>Minimum five years of relevant experience with a preference for experience in the field of communications, creative media, and marketing services.</p>	<p>Project Management lead for contract and coordination with DHR. This person will be considered the lead from the contracted agency who organizes, plans and executes across the projects with DHR to coordinate the teams, define project goals, coordinate and implement feedback, issue assignments, manage and send work products, and serve as the primary point of contact.</p>
<p><u>Account Coordinator</u></p> <p>Minimum three years of relevant experience with a preference for experience in the field of communications, creative media, and marketing services.</p>	<p>Leads and supports internal project management</p>
<p><u>Creative Lead</u></p> <p>Minimum five years of experience with a preference for experience in the field of communications, creative media, and marketing services.</p>	<p>Leads all design work products and liaisons with creative staff and DHR</p>
<p><u>Senior Copywriter</u></p>	

Minimum five years of experience with a preference for experience in the field of communications, creative media, and marketing services.	Leads original content production for all work products and liaisons with DHR
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2.5 Contractor's Compensatory Liability

In the event that the Contractor fails to complete any of the specified services within the timeframe required, DHR reserves the right to have such work completed either by another contractor or with in-house staff. In any such event, the contractor shall be liable to reimburse DHR for all costs incurred to complete the work. DHR further reserves the right to collect such reimbursement from any outstanding payments due to the contractor.

2.6 Warranties

Contractor warrants that the services acquired under this Contract will be provided in a professional manner in accordance with industry standards.

All materials and workmanship provided under this contract shall be warranted for a minimum of one year after contract expiration. Where Contractor, Product manufacturer or service provider generally offers additional or more advantageous warranties, such additional or more advantageous warranty shall apply. All warranties contained in this Contract shall survive the termination of this Contract.

2.7 Confidentiality

Contractor agrees to keep confidential and not to disclose to third parties any information provided by DHR or learned by the Contractor during the performance of the Contract unless Contractor has received the prior written consent of DHR to make such disclosure. This provision shall survive the expiration and termination of this Contract. The Contractor warrants that all of its operations are compliant with all federal, state and local laws, rules and regulations pertain to the privacy and/or security of personal and confidential information.

3. Proposal Submission

3.1 RFP Questions and Clarifications

There will be an opportunity for submission of questions and/or requests for clarification. Questions and/or clarifications must be submitted via e-mail to the PRIMARY Designated Contact:

Paige Corning, Contract Management Specialist II
New York State Office of General Services
Financial Administration / Agency Procurement Office
32nd Floor, Corning Tower, Empire State Plaza
Albany, New York 12242
Voice: 518-474-8209
E-mail: Paige.Corning@ogs.ny.gov

All questions should cite the page number, section, and paragraph number, where applicable. Please submit questions as early as possible following receipt of the RFP. The two deadlines for submission of any questions/clarifications regarding this RFP are listed in **Section 1.3 - Key Events**. Questions received after the deadlines may not be answered. OGS will post an addendum at <https://ogs.ny.gov/procurement/bid-opportunities> with all questions and responses on or about the dates listed in **Section 1.3 - Key Events**. Any additional addenda will be posted to the same location. Any verbal information obtained from, or statements made by, representatives of the OGS Commissioner of construed as in any way amending contract documents. Only such corrections or addenda as are issued, in writing, to all Proposers shall become a part of the contract.

3.2 Proposal Format and Content

For the State to evaluate bids fairly and completely, Proposers are strongly encouraged to follow the format set forth herein and should provide all of the information requested. All items requested in this submission section should be provided and addressed as clearly as possible. Failure to conform to the stated requirements may necessitate rejection of the bid.

Proposers are encouraged to include all information that may be deemed pertinent to their proposal. Proposers may be requested to provide clarification based on the State's evaluation procedure. Any clarification will be considered a formal part of the Proposer's original proposal. If further clarification is needed during the evaluation period, OGS will contact the Proposer.

Note: OGS reserves the right to request any additional information deemed necessary to ensure that the Proposer is able to fulfill the requirements of any contract resulting from this Solicitation.

3.2.1 Technical Proposal

No overt reference to **cost** shall be made in the technical proposal. Please ensure that all the below items are addressed in the order presented here in your technical proposal. Each firm's technical proposal will be evaluated on the criteria listed below to determine Proposer's ability to successfully provide the Services. Please keep proposals as concise as possible.

The Technical Proposal shall include the following:

3.2.1.1 Cover Letter

The cover letter should confirm that the Proposer understands all the terms and conditions contained in this Solicitation and will comply with all the provisions of this Solicitation. Further, the cover letter should confirm that the Proposer understands that should the contract be awarded to the Proposer, it would be prepared to begin Services on the date indicated in **Section 1.3 - Key Events**. The cover letter should also include the full contact information of the Proposer's representative that OGS shall contact regarding the bid. A Proposer representative authorized to make contractual obligations must sign the cover letter.

3.2.1.2 Proof of Minimum Proposer Qualifications

The Proposer shall provide the following to establish that they meet the Minimum Proposer Qualifications as set forth in Section 1.4 of this Solicitation without the use of Subcontractors:

- A. Proposing firms must be actively engaged and have continuous professional experience in the Advertising Industry for the last five years.
 - i. Proposers must include specific details regarding the scope of services, names of the customers the services were provided for, and length of service to enable OGS to verify the minimum qualification was met.
- B. Proposers must have experience in Social Justice, Anti-Hate, Diversity, Equity, Inclusion or Rights Based Campaigns.
 - i. Proposers must include specific details of at least one project to prove experience with Social Justice, Anti-Hate, Diversity, Equity, Inclusion or Rights Based campaigns.
- C. Proposing firms must have a minimum of \$2 million annual client billings for each of the last five years, specifically for performing work in the Advertising Industry.
 - i. Proposers must include a report of annual billings for each of the last five years, specifically for advertising services.

3.2.1.3 Additional Proposal Submission Requirements

The Proposer shall submit the following information (Refer to Section 4.1.1 for more detailed information to be included in the technical proposal):

- A. A narrative that describes the company and its history in the Advertising Industry;
- B. Resumes of Proposer's key personnel (as described in **Section 2.4 – Staffing Requirements/Key Personnel**) and any other known employees that would be providing the Services of this Contract; and
- C. At least three references from existing clients for which the Proposer has performed work similar to size and scope of the Services as described in **Section 2 – Scope of Services**. The references must describe the work performed and attest that it was performed within the past five years.

3.2.1.4 Proposer's Approach to the Services

The Proposer shall submit the following information (Refer to Section 4.1.1 for more detailed information to be included in the technical proposal):

- A. A description of how the Proposer shall provide Services for each of the Deliverables listed in **Section 2.2 - Deliverables**.
- B. Description of the Proposer and its experience providing the Services, including descriptions of similar contracts that the Proposer has successfully worked on within the past five years, with emphasis on contracts similar in scope to what is contemplated in this Solicitation.
- C. Approach for providing the Services in accordance with the requirements of this Solicitation, and any contract resulting therefrom.

3.2.2 Cost Proposal

Proposers shall submit a completed **Attachment 1 – Cost Proposal Form**, in a separately sealed package within the proposal submission, and must be clearly identified as the “Cost Proposal”. Each item must be completed with no lines omitted.

Proposers shall not provide alternative pricing or deviate from the **Attachment 1 - Cost Proposal Form**. Alternative pricing methodologies will not be considered and may result in the rejection of the proposal.

3.2.3 Administrative Documentation

Proposers shall submit:

- A. All required completed forms from RFP Appendix B.
- B. **MWBE**. This procurement includes MWBE participation goals of which all Proposers must comply. Refer to Appendix E of this Solicitation for specific details pertaining to this procurement opportunity. The New York State Contract System includes an MWBE Directory that can be utilized to find certified MWBE businesses to meet this requirement. <https://ny.newnycontracts.com/FrontEnd/searchcertifieddirectory.asp>
- C. **SDVOB**. This procurement includes SDVOB participation goals of which all Proposers must comply. Refer to Appendix F of this Solicitation for specific details pertaining to this procurement opportunity. The directory of New York State Certified SDVOBs can be utilized to find SDVOB businesses to meet this requirement: <https://online.ogs.ny.gov/SDVOB/search>
- D. Signed bid addenda (if any)
- E. Important Notes:
 - 1. Insurance – Proposers are reminded of the insurance requirements as described in Appendix D. The selected Proposer will be required to provide all necessary documentation upon notification of selection.
 - 2. Vendor Responsibility - Proposers are reminded of the requirement as described in Section 6.11 and are requested to complete the online questionnaire located on the OSC VendRep System website prior to bid submission. If the vendor has previously certified responsibility online, it shall ensure that the VRQ was recertified in the last 6 months.
 - 3. Document Consistency - An award will only be made to the entity which has submitted bid. All submitted documents must be consistent with official name of bidding entity, FEIN and New York State Vendor ID number.

Note: Please note that all bids must be completed in ink or machine produced. Bids submitted handwritten in pencil will be disqualified.

3.3 Packaging of RFP Response

The technical, cost, and administrative proposals (see **Section 3.2 – Proposal Format and Content**) should be separated and identified within the submission package as follows:

- A. Technical – One original tabbed in a three-ring binder.
- B. Cost – One original of **Attachment 1 – Cost Proposal Form** clearly marked “Cost Proposal” in a **separate sealed envelope**.
- C. Administrative - One original of all required completed forms and information as stated in **Section 3.2.3 – Administrative Documentation**.

Please provide one duplicate digital record (USB or Thumb Drive) containing the technical, cost, and administrative proposals. If there are any differences between the paper submission and the electronic submission, the paper submission shall take precedence.

Originals contain a unique wet signature for each of the signed and notarized pages. Exact copies can be photocopied and do not require a unique wet signature.

All proposal documents must be submitted by mail, hand delivery, overnight carrier or certified mail in a package showing the following information on the outside:

- A. Proposer 's complete name and address
- B. Solicitation Number – 2818
- C. Proposal Due Date and Time: **(as stated in Section 1.3 - Key Events)**
- D. Proposal for Marketing, Advertising, and Public Relations Services for the Diversity, Equity, Inclusion and Tolerance Public Awareness Campaign

Failure to complete all information on the proposal envelope and / or packages may necessitate the premature opening of the proposal and may compromise confidentiality.

3.4 Instructions for Proposal Submission

Note that these instructions supersede the generic instructions posted on the OGS website bid calendar.

Only those Proposers who furnish all required information and meet the mandatory requirements will be considered.

Submit all required bid documents, to the New York State Office of General Services - Division of Financial Administration, Agency Procurement Office, at the following address:

New York State Office of General Services
Financial Administration / Agency Procurement Office
32nd Floor, Corning Tower, Empire State Plaza
Albany, NY 12242

Attn: Paige Corning
Proposal # 2818

E-MAIL OR FAX BID SUBMISSIONS ARE NOT ACCEPTABLE AND WILL NOT BE CONSIDERED.

The State of New York will not be held liable for any cost incurred by the Proposer for work performed in the preparation and production of a bid or for any work performed prior to the formal execution and approval of a contract.

Proposals must be received in the above office on or before 2:00 PM on the date indicated in **Section 1.3 - Key Events**. Proposers assume all risks for timely, properly submitted deliveries. Proposers mailing their bid must allow sufficient mail delivery time to ensure receipt of their bid at the specified location no later than the specified date and time.

The received time of bids will be determined by the clock at the above noted location.

Any bid received at the designated location after the established time will be considered a late bid. A late bid may be rejected and disqualified from award. Notwithstanding the foregoing, a late bid may be accepted in the OGS Commissioner's sole discretion where (i) no timely bids meeting the requirements of the Solicitation are received, or (ii) the Bidder has demonstrated to the satisfaction of the OGS Commissioner that the late bid was caused solely by factors outside the control of the Bidder. However, in no event will the OGS Commissioner be under any obligation to accept a late bid. The basis for any determination to accept a late bid shall be documented in the procurement record.

Bids must remain open and valid for 90 days from the due date, unless the time for awarding the contract is extended by mutual consent of OGS and the Proposer. A bid shall continue to remain an effective offer, firm and irrevocable, after such 90-day period until either tentative award of the contract(s) by the Issuing Office is made or withdrawal of the bid in writing by the Proposer. Tentative award of the contract(s) shall consist of written notice to that effect by the Issuing Office to the successful Proposer. This RFP remains the property of the State at all times, and all responses to this RFP, once delivered, become the property of the State.

Important Building Access Procedures for Delivered Bids:

Building access procedures are in effect at the Corning Tower. Photo identification is required. All visitors must register for building access, for delivering bids. **Vendors are encouraged to pre-register by contacting the Agency Procurement Office at 518-474-5981 at least 24 hours prior to arrival.** Pre-registered visitors are to report to the visitor desk located at the Concourse level of the Corning Tower. Upon presentation of appropriate photo identification, the visitor will be allowed access to the building.

Upon arrival at the visitor desk, visitors that have not pre-registered will be directed to a designated phone to call the Issuing Office. The Issuing Office will then enter the visitor's information into the building access system. Access will not be allowed until the system has been updated. Vendors who intend to deliver bids or conduct business with OGS should allow extra time to comply with these procedures. These procedures may change or be modified at any time. Visitor parking information can be viewed at the following OGS web site: <https://empirestateplaza.ny.gov/parking>.

The State is not liable for any cost incurred by a Proposer in the preparation and production of a proposal or for any Services performed prior to the issuance of a contract.

4. Evaluation and Selection Process

4.1 Proposal Evaluation

Proposals will be evaluated for best value to the State and scored based upon the criteria set forth in this section. A team of OGS employees will evaluate each proposal and initially determine whether a proposal is responsive to the requirements of this Solicitation.

Proposals determined responsive will be evaluated by a committee of DHR employees (the “Evaluation Committee”) using a 1000 Point Scale. Percentages listed in categories A through D in **Section 4.1.1 – Evaluation Categories** will determine how many points a proposal is given for each Evaluation Category. For example, Category A – Experience and Key Personnel is worth 30% of total available points or a maximum of 300 Points.

4.1.1 Evaluation Categories

The Evaluation Committee will evaluate each responsive technical proposal in accordance with the following criteria:

A. Experience and Key Personnel

30%

1. Demonstrate an ability to provide comprehensive and culturally engaging statewide campaign strategies, advertising, marketing and public relations services that empowers community to heal and combat hate. Describe what distinguishes your company in the industry. Describe relevant experience comparable in scale and scope to the services contemplated herein.
2. Describe the background and experience of key personnel, partners, or subcontractors. Include an organizational chart which shows all divisions, sections or units including executive, creative, public relations, media department, accounting and other programmatic functions, as well as a list of all personnel and relevant subcontractors who will be involved with the contract awarded from this RFP, and the percentage of their time expected to be devoted to the contract. The proposer should also indicate the percentage of work that is expected to be done in-house and the type and percentage it expects to subcontract. Affirmatively state whether the bidding firm and/or key personnel have worked for any New York State agency or department, as an employee, contractor, or subcontractor.
3. The bidder must provide a minimum of three verifiable references that can substantiate the quality of the bidder's work and service. References should be from clients in which the bidder provided similar work as that requested in this RFP with combined annual billings at or above \$2,000,000. The references must include:
 - a. Name, title, address, email, and phone number of each reference
 - b. Length of the relationship
 - c. Detailed description of the services provided

Note that DHR will contact the references to verify the information provided; the Bidder is solely responsible for the availability of the submitted references.

B. Creative Examples and Case Histories

30%

1. Provide a visual portfolio on a flash drive of examples of creative work performed for and used by its clients. Brief descriptions may accompany creative items in the portfolio. The portfolio should address the breadth of the bidder's capabilities in all forms of media and marketing.
2. Provide three detailed case histories relevant in scale and scope to the scope of work as defined in Section 2 of this RFP, demonstrating proficiency in all aspects of campaign strategies, marketing, advertising, and public relations.

C. Performance Measures

5%

The bidder should describe its plan for monitoring the extent to which its marketing, public relations, and advertising efforts have a positive impact on DHR's desired outcomes. The plan should include specific key performance indicators that the bidder will employ to evaluate its marketing, public relations, and advertising plan (i.e. identify targets, goals and benchmarks for evaluating performance outcomes and what measures bidder will use to provide DHR with relevant information to monitor program performance).

D. MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE (MWBE), SERVICE-DISABLED VETERAN OWNED BUSINESS (SDVOB) OR NEW YORK STATE SMALL BUSINESS ENTERPRISE (SBE) STATUS

5%

Proposers that are a MWBE, SDVOB or SBE as defined in Executive Law Section 310(20) with receive an additional 5%. Note: Although a Proposer may meet more than one category, credit is only awarded once.

E. COST

30%

The Grand Total Bid Amount will be evaluated in relation to all cost proposals submitted by responsive Proposers. Please see **Section 5.4 – Price**.

4.1.2 Preliminary Score and Down Selection

Each cost proposal score (Category E) will be added to the technical proposal score (Categories A – D) to develop the total preliminary score. The firms with the five highest total preliminary scores, will be the finalist firms and be required to present a virtual presentation.

4.1.3 Virtual Presentation

As indicated above, finalist proposers will present to the Evaluation Committee on a date, time, and location designated by DHR. Eligible Proposers, using the down select process, will be invited to a one-hour virtual presentation with OGS and DHR.

The oral presentation should be led by the Key Personnel listed in the Proposer's RFP submission. The presentation is the proposer's opportunity to speak on their approach to the project and to one of the campaign samples submitted for **Section 4.1.1.B – Creative Samples and Case Histories**. The Proposer should include within their presentation the items listed below:

1. The Proposer should provide an in-person presentation to the Evaluation Committee, not to exceed one hour. The Proposer's agency should demonstrate how it would provide comprehensive and culturally engaging campaign strategies, advertising, marketing, and public relations services to meet the goals outlined in **Section 2 – Scope of Services**.
2. An overall concept outlining the goals for the campaign, the strategy for the comprehensive and culturally engaging anti-hate campaign strategies, and discussion of obstacles to overcome.
3. Specific sample marketing and advertising materials to be used in such a campaign to make clear the strategy and implementation of bidder's proposal and an explanation/justification as to why the bidder believes the type(s) of marketing and advertising materials they propose to implement will best serve to increase awareness and empower community to heal and combat hate in New York.

The oral presentations will be tentatively scheduled the week of January 8th – 12th, 2024 and will be held virtually.

The Proposer may consider incorporating into the virtual presentation visual references or supplemental materials to the campaign sample(s) provided and presented at the presentation, quantitative and qualitative data referenced, and any other information Proposers believe would be beneficial. Proposers will be evaluated on their ability to clearly and effectively convey how their team responds to the needs and goals of client(s); response to questions; ability to hone in on the audience's voice and the Proposer's creativity and process to creating authentic, compelling campaigns. Materials presented, such as a presentation deck, should be provided no later than 24 hours after the presentation to DHR for the Evaluation Committee's reference and consideration.

Proposers may maintain the confidentiality of their clients or information proprietary to their clients as deemed necessary.

4.1.4 Recalculation

Cost proposals (Category E) will be recalculated using only the cost proposals from the finalist firms, as described above in this section, Cost Proposal Evaluation (30%).

Following the presentations, the evaluation team may adjust their technical scores for Categories A, B and C.

The recalculated scores for Categories A – C and E, as well as the score for Category D, will be combined to develop the final technical and cost score (100%).

4.1.5 Final Composite Score

Scores from each of the finalist firms will be totaled, and the Proposer having the highest score will be ranked number one; the Proposer with the second highest total score will be ranked number two, and so on.

4.2 Notification of Award

After the evaluation, all Proposers will be notified of the name of the selected Proposer. The selected Proposer will be notified that its submitted proposal has been selected and that a contract will be

forthcoming for execution. The original proposal, and any additions or deletions to the proposal, become part of the contract.

Public announcements or news releases pertaining to any contract resulting from this Solicitation shall not be made without prior written approval from the Issuing Office.

5. Administrative Information

5.1 Issuing Office

This RFP is being issued by the OGS Division of Financial Administration, Agency Procurement Office, on behalf of DHR.

5.2 Method of Contract Award

One contract shall be awarded under this solicitation. The contract awarded under this solicitation will be made to the responsive and responsible Proposer receiving the highest point total using the evaluation criteria listed in **Section 4 - Evaluation and Selection Process**, affording the best value to the State.

Upon determination of the best value proposal, a contract, between DHR and the successful Proposer, will be delivered to the successful Proposer for signature and shall be returned to the Issuing Office for all necessary New York State approvals. The contract will require approval from the New York State Office of the Attorney General (AG) and the New York State Office of the State Comptroller (OSC) before it becomes valid and effective. Upon final approval, a completely executed contract will be delivered to the Contractor.

The Grand Total amount bid by the selected Contractor, shall be used to establish the contract value. The established contract value shall not be exceeded.

A discount for early payment does not affect bid amounts nor is it considered in making awards, except that a discount may be considered in resolving tie bids.

5.3 Term of Contract

The Term of the contract shall commence upon OSC approval and will be in effect for one year with an optional one-year renewal. The option to extend the contract for the one additional year shall be solely determined by DHR.

5.4 Price

Proposers must provide pricing for each Deliverable as listed in **Section 2.2 – Deliverables** using **Attachment 1 – Cost Proposal Form**. Any deviations, alterations, qualifiers, or ranges included with the cost proposal may result in rejection of the proposal. Proposed prices shall include all proposed functionality, labor, equipment, materials, supplies, etc. to provide the specified service. All prices proposed shall be inclusive of all customs, duties and charges, including but not limited to, travel, insurance, administrative, profit and ancillary costs.

If the Proposer offers an early payment discount for payments made in less than 30 days after receipt of a proper invoice, please detail the discount by providing, in the appropriate place on RFP **Attachment 1 - Cost Proposal Form**, the percentage of discount and the specific number of days within which the payment must be made for the discount to apply. If the Proposer offers multiple discounts, please provide the details for each discount offered (for example: 2%/15 days; 1%/20 days).

A discount for early payment does not affect bid amounts nor is it considered in making awards, except that a discount may be considered in resolving tie bids.

5.5 Method of Payment

Invoices will be processed in accordance with established procedures of DHR and OSC and payments will be subject to the prompt payment provisions of Article XI-A of the New York State Finance Law.

Each invoice **must** be itemized and include the following information: Name of New York State agency being billed; Contract ID number; Purchase Order number; Vendor name; Company FEIN; Vendor ID number; a unique invoice number; date(s) of service(s), a detailed description of Services performed, including specific Deliverables worked on; and the dollar amount requested in accordance with contract rates.

Invoices without the above-stated information will be returned to Contractor to be completed as required above. **Payment will not be issued and will not be due and owing until a corrected invoice is received and approved by DHR.**

All invoices must be submitted for payment to:

Office of General Services

C/O BSC / Accounts Payable

1220 Washington Ave., Bldg. 5, 5th Fl.

Albany, New York 12226

Or e-mail to: Accountspayable@ogs.ny.gov

A copy of each invoice must also be submitted via email to the following addresses:

Michael.Small@dhr.ny.gov and financeemail@dhr.ny.gov.

5.6 Electronic Payments

Contractor shall provide complete and accurate billing invoices in order to receive payment. Billing invoices submitted must contain all information and supporting documentation required by the contract, the agency, and the State Comptroller. Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the DHR Commissioner, in the DHR Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The Contractor shall comply with the State Comptroller's procedures to authorize electronic payments. Contractor must arrange for electronic payment through the New York State Statewide Financial System (SFS) Vendor Portal. Information regarding SFS Vendor Portal is available at the following website: <http://www.sfs.ny.gov/index.php/vendors>. If Contractor doesn't have SFS Vendor Portal credentials, they may request them via e-mail at Helpdesk@sfs.ny.gov, or phone at 518-457-7717. The Contractor acknowledges that it will not receive payment on any invoices submitted under this Contract if it does not comply with the State Comptroller's electronic payment procedures, except where the DHR Commissioner has expressly authorized payment by paper check as set forth above.

5.7 Exceptions and Extraneous Terms

The Issuing Office will consider all requests to waive any Solicitation requirement. The term "Solicitation requirement" as used herein shall include any and all terms and conditions included in the Solicitation documents. Bidders should be aware that failure to obtain a waiver of any proposal requirement in advance

of bid submission, and/or inclusion of extraneous terms in the form of exceptions, assumptions, qualifiers, ranges, modifications, etc. with bid submission, may result in rejection of Bidder's proposal and disqualification from the bidding process.

Bidders wishing to obtain an exemption or waiver for any part of this Solicitation must contact the Issuing Office in writing by the questions due date as identified in the Key Events section. The request must cite the specific section and requirement in question, and clearly identify any proposed alternative. Requests will be considered and responded to in writing, either with the answers to questions as identified in the Key Events section (if the response results in a change to the Solicitation), or directly to the requesting vendor.

5.8 Dispute Resolution

It is the policy of the OGS to provide vendors with an opportunity to administratively resolve disputes, complaints or inquiries related to proposal Solicitations, contract awards, and contract administration. OGS encourages vendors to seek resolution of disputes informally, through consultation with OGS staff, prior to commencing a formal dispute process. All such matters will be accorded full, impartial and timely consideration. A copy of the OGS Dispute Resolution Procedures for Vendors may be obtained by contacting the designated contact person identified in Section 1.2 of the Solicitation.

During the term of the contract, if either party notifies the other of a dispute or dissatisfaction, the other party will make a good faith effort to solve or settle dispute amicably, including meeting with the other party to diligently attempt to reach a satisfactory result. In the event of a dispute, the parties will continue to fulfill their obligations hereunder during the dispute resolution process. The parties agree to proceed in good faith to avoid disputes and resolve disputes that cannot be avoided at the lowest level possible. If party representatives are unable to resolve the dispute or reach a satisfactory result within twenty days of written notice of a dispute, the dispute will be referred to successive higher levels of each organization for final decision.

5.9 Rules of Construction

Words of the masculine and feminine genders shall be deemed and construed to include the neuter gender. Unless the context otherwise indicates, the singular word shall include the plural and vice versa, and words importing persons shall include corporations and associations, including public bodies, as well as natural persons. The terms "hereby," "hereof," "hereto," "herein," "hereunder," and any similar terms, as used in this RFP, refer to this RFP.

5.10 Balanced Bids

Prices quoted must be in balance. A bid is mathematically unbalanced if the bid is structured on the basis of nominal prices for some work and inflated prices for other work; that is, each element of the bid must carry its proportionate share of the total cost of the work plus profits.

Bids with extreme variations, or where obvious unbalancing of unit prices has occurred, will be thoroughly evaluated by OGS. Out-of-balance bids may be rejected in whole or in part; however, OGS reserves the right to negotiate prices with the Bidder to balance unbalanced pricing.

5.11 Examination of Contract Documents

- A. Each Proposer is under an affirmative duty to inform itself by personal examination of the specifications of the proposed work and by such other means as it may select, of the character, quality and extent of the work to be performed and the conditions under which the contract is to be executed.
- B. Each Proposer shall examine specifications and all other data or instruction pertaining to the work. No pleas of ignorance of conditions that may be encountered or of any other matter concerning the work to be performed in the execution of the contract will be accepted by the State as an excuse for any failure or omission on the part of the Proposer to fulfill every detail of all the requirements of the documents governing the work. The Proposer, if awarded the contract, will not be allowed any extra compensation by reason of any matter or thing concerning which such Proposer might have fully informed itself prior to bidding.
- C. Any Proposer in doubt as to the true meaning of any part of the specification or the proposed contract documents shall submit to Paige Corning, Division of Financial Administration, 32nd Floor, Corning Tower Building, Empire State Plaza, Albany, New York 12242 e-mail: Paige.Corning@ogs.ny.gov a written request for an interpretation thereof. If a major change is involved to which all Proposers must be informed, such request for interpretation shall be delivered, in writing, no later than the question due date listed in **Section 1.3 – Key Events**. Any interpretation of the proposed documents will be made only by an addendum duly issued.
- D. Any addendum issued prior to the proposal due date must be acknowledged by signature, dated and be submitted as part of the Administrative Proposal. In awarding a contract, any addenda will become a part thereof.
- E. Any verbal information obtained from, or statements made by, representatives of the Commissioner of General Services or Human Rights at the time of examination of the documents, pre-bid conference, or site visit shall not be construed as in any way amending contract documents. Only such corrections or addenda as are issued, in writing, to all Proposers shall become a part of the contract.

5.12 Debriefings

Pursuant to Section 163(9)(c) of the State Finance Law, any unsuccessful Bidder may request a debriefing regarding the reasons that the bid submitted by the Bidder was not selected for award. Requests for a debriefing must be made within fifteen (15) calendar days of notification by OGS that the bid submitted by the Bidder was not selected for award. Requests should be submitted in writing to the Designated Contact identified in Section 1.2 of the Solicitation.

5.13 Procurement Rights

New York State reserves the right to:

- A. Reject any and all proposals received in response to this Solicitation.
- B. Disqualify a Proposer from receiving the award if the Proposer, or anyone in the Proposer's employ, has previously failed to perform satisfactorily in connection with public bidding or contracts.

- C. Correct Proposers' mathematical errors and waive or modify other minor irregularities in proposals received, after prior notification to the Proposer.
- D. Adjust any Proposer's expected costs of the bid price based on a determination of the evaluation committee that the selection of the said Proposer will cause the State to incur additional costs.
- E. Utilize any and all ideas submitted in the proposals received.
- F. Negotiate with Proposers responding to this Solicitation within the Solicitation requirements to serve the best interests of the State.
- G. Begin contract negotiations with another bidding Contractor(s) in order to serve the best interests of the State of New York should the State of New York be unsuccessful in negotiating a contract with the selected Contractor within 21 days of selection notification.
- H. Waive any non-material requirement not met by all Proposers.
- I. Not make an award from this Solicitation.
- J. Make an award under this Solicitation in whole or in part.
- K. Make multiple contract awards pursuant to the Solicitation.
- L. Have any service completed via separate competitive bid or other means, as determined to be in the best interest of the State.
- M. Seek clarifications of proposals.
- N. Disqualify any Proposer whose conduct and/or proposal fails to conform to the requirements of the RFP.
- O. Prior to the bid opening, amend the RFP specifications to correct errors or oversights, or to supply additional information, as it becomes available.
- P. Waive any requirements that are not material.
- Q. If two or more bids are found to be substantially equivalent, the OGS Commissioner, at their sole discretion, will determine award using the pre-established process. For best value procurements, cost will be the determining factor.

Please Note: The State is not liable for any cost incurred by a Proposer in the preparation and production of a proposal or for any work performed prior to the issuance of a contract.

6. Contract Clauses and Requirements

6.1 Appendix A / Order of Precedence

Appendix A — Standard Clauses for New York State Contracts, dated June 2023, attached hereto, is hereby expressly made a part of this Solicitation document as fully as if set forth at length herein. Appendix A is a separate document to this RFP and shall be retained for reference by the Proposer.

The contract resulting from a successful award will include the following documents:

- A. Appendix A (dated June 2023)
- B. The Contract
- C. OGS RFP Number 2818 (This Document) including all Addenda
- D. Selected Contractor's Proposal

Conflicts between these documents will be resolved in descending order of precedence.

6.2 Past Practice

The failure to exercise any right hereunder in the past shall not operate as a waiver of such right. No breach of this Solicitation or any contract resulting therefrom shall be deemed waived unless such waiver shall be in writing and signed by the party claimed to have waived said right. No waiver of any breach of this Solicitation or any contract resulting therefrom at any time in the past shall constitute a waiver of subsequent breach.

6.3 Procurement Lobbying Requirement

Pursuant to State Finance Law §139-j and §139-k, this Solicitation includes and imposes certain restrictions on communications between OGS and a Vendor during the procurement process. A Vendor is restricted from making contacts from the earliest posting, on a governmental entity's website, in a newspaper of general circulation, or in the procurement opportunities newsletter of intent to solicit offers/bids through final award and approval of the Procurement Contract by OGS and, if applicable, the Office of the State Comptroller ("Restricted Period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). Designated staff, as of the date hereof, is identified on the first page and in Section 1.2. OGS employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Vendor pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period; the Vendor is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found on the OGS website: <http://www.ogs.ny.gov/acpl/>.

6.4 Tax and Finance Clause

TAX LAW § 5-A:

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain Contractors awarded State contracts for commodities, Services and technology valued at more than \$100,000 to certify to the Department of Taxation and Finance (DTF) that they are registered to collect New York State and local sales and compensating use taxes. The law applies to contracts where the total amount of such Contractors' sales delivered into New York State are in excess of \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made, and with respect to any affiliates and Subcontractors whose sales delivered into New York State exceeded \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made.

This law imposes upon certain Contractors the obligation to certify whether or not the Contractor, its affiliates, and its Subcontractors are required to register to collect State sales and compensating use tax and Contractors must certify to DTF that each affiliate and Subcontractor exceeding such sales threshold is registered with DTF to collect New York State and local sales and compensating use taxes. The law prohibits the State Comptroller, or other approving agency, from approving a contract awarded to a Contractor meeting the registration requirements but who is not so registered in accordance with the law.

Contractor certification forms and instructions for completing the forms are attached to this RFP. Form ST-220-TD must be filed with and returned directly to DTF. Unless the information upon which the ST-220-TD is based changes, this form only needs to be filed once with DTF. If the information changes for the Contractor, its affiliate(s), or its Subcontractor(s) a new Form ST-220-TD must be filed with DTF.

Form ST-220-CA must be filed with the proposal and submitted to the procuring covered agency certifying that the Contractor filed the ST-220-TD with DTF. Proposed Contractors should complete and return the certification forms within two business days of request (if the forms are not completed and returned with proposal submission). Failure to make either of these filings may render a Proposer non-responsive and non-responsible. Proposers shall take the necessary steps to provide properly certified forms within a timely manner to ensure compliance with the law.

Vendors may call DTF at **1-800-698-2909** for any and all questions relating to Section 5-a of the Tax Law and relating to a company's registration status with the DTF. For additional information and frequently asked questions, please refer to the DTF web site: <https://www.tax.ny.gov/>

6.5 Freedom of Information Law / Trade Secrets

During the evaluation process, the content of each bid/proposal will be held in confidence and details of any bid/proposal will not be revealed (except as may be required under the Freedom of Information Law or other State law). The Freedom of Information Law provides for an exemption from disclosure for trade secrets or information the disclosure of which would cause injury to the competitive position of commercial enterprises. This exception would be effective both during and after the evaluation process. Should you feel your firm's bid/proposal contains any such trade secrets or other confidential or proprietary information, you must submit a request to except such information from disclosure. Such request must be in writing, must state the reasons why the information should be excepted from disclosure and must be provided at the time of submission of the subject information. This can be accomplished by completion of the applicable

question on the Contractor information page in Appendix B hereto. Requests for exemption of the entire contents of a bid/proposal from disclosure have generally not been found to be meritorious and are discouraged. Kindly limit any requests for exemption of information from disclosure to bona fide trade secrets or specific information, the disclosure of which would cause a substantial injury to the competitive position of your firm.

6.6 General Requirements

- A. The Proposer agrees to adhere to all State and Federal laws and regulations in connection with the contract, including but not limited to ensuring that it, its employees, and subcontractors obtain and maintain all required certificates and licenses.
- B. The Proposer agrees to notify the State of any changes in the legal status or principal ownership of the firm, 45 days in advance of said change.
- C. The Proposer agrees that in any contract resulting from this RFP it shall be completely responsible for its work, including any damages or breakdowns caused by its failure to take appropriate action.
- D. The Proposer agrees that any contract resulting from this RFP may not be assigned, transferred, conveyed or the work subcontracted without the prior written consent of the State.
- E. For reasons of safety and public policy, in any contract resulting from this RFP, the use of illegal drugs and/or alcoholic beverages by the Contractor or its personnel shall not be permitted while performing any phase of the work herein specified.
- F. For purposes of any contract resulting from this RFP, the State will not be liable for any expense incurred by the Contractor for any parking fees or as a consequence of any traffic infraction or parking violations attributable to employees of the Contractor.
- G. The State's interpretation of specifications shall be final and binding upon the Contractor.
- H. The DHR Commissioner will make no allowance or concession to the Proposer for any alleged misunderstanding because of quantity, quality, character, location or other conditions.
- I. Should it appear that there is a real or apparent discrepancy between different sections of specifications concerning the nature, quality or extent of work to be furnished, it shall be assumed that the Proposer has based its bid on the more expensive option. Final decision will rest with the State.
- J. INSPECTION – For purposes of any contract resulting from this RFP the quality of service is subject to inspection and may be made at any reasonable time by the State of New York. Should it be found that quality of Services being performed is not satisfactory and that the requirements of the specifications are not being met, DHR may terminate the contract and employ another Contractor to fulfill the requirements of the contract. The existing Contractor shall be liable to the State of New York for costs incurred on account thereof.
- K. STOP WORK ORDER – DHR reserves the right to stop the work covered by this RFP and any contract(s) resulting there from at any time that it is deemed the Contractor is unable or incapable of performing the work to the State's satisfaction. In the event of such stopping, DHR shall have the right to arrange for the completion of the work in such manner as it may deem advisable and if the cost thereof exceeds the amount of the proposal, the Contractor shall be liable to the State of New York for any such costs on account thereof. In the event that DHR issues a stop work order for the work as provided herein, the Contractor shall have ten working days to respond thereto before any such stop work order shall become effective. Provided,

however, that if an emergency situation exists, as reasonably determined by DHR, then the stop work order shall be effective immediately.

- L. DHR reserves the right to reject and bar from the facility any employee hired by the Contractor.

6.7 Subcontractors

The State will contract only with the successful Bidder who is the Prime Contractor. The Issuing Office considers the Prime Contractor, the sole Contractor with regard to all provisions of the solicitation and the contract resulting from the solicitation. When bidding, any known / planned use of subcontractors must be disclosed in detail with bid submission. If subcontractors are to be used for base scope services, it shall be understood that the bid price includes the cost of the subcontractor, and no additional markups will be allowed.

No subcontract entered into by the Contractor shall relieve the Contractor of any liabilities or obligations in this solicitation or the resultant contract. The Contractor accepts full responsibility for the actions of any employee or subcontractor/subcontractor's employee(s) who carry out any of the provisions of any contract resulting from this solicitation.

The Contractor's use of subcontractors shall not diminish the Contractor's obligations to complete the work in accordance with the contract. The Contractor shall coordinate and control the work of the subcontractors. Any subcontractor shall be subject to the applicable terms, conditions and requirements contained herein. The Contractor shall be responsible for informing the subcontractors of all terms, conditions, and requirements of the contract documents.

During the term of the Contract, before any part of the contract shall be sublet, the Contractor shall submit to the First Deputy Commissioner, One Fordham Plaza, 4th Floor, Bronx, New York 10458, in writing, the name of each proposed subcontractor and obtain written consent to such subcontractor. The names shall be submitted in ample time to permit acceptance or rejection of each proposed subcontractor without causing delay in the work of this contract. The Contractor shall promptly furnish such information as the First Deputy Commissioner may require concerning the proposed subcontractor's ability and qualifications.

6.8 Extent of Services

DHR reserves the right to re-negotiate at its discretion, to reduce the amount of Services provided under any contract resulting from this Solicitation. This reduction in Services shall be effectuated by written amendment to the contract, subject to approval by OSC.

6.9 Termination

A. Termination

The State may, upon 30 days' notice, terminate any contract resulting from this Solicitation in the event of the awarded Bidder's failure to comply with any of the proposal's requirements unless the awarded Bidder obtained a waiver of the requirement.

In addition, the State may also terminate any contract resulting from this Solicitation upon ten days' written notice if the Contractor makes any arrangement for assignment for the benefit of creditors.

Furthermore, the State shall have the right, in its sole discretion, at any time to terminate a contract resulting from this Solicitation, or any unit portion thereof, with or without cause, by giving 30 days' written notice of termination to the Contractor.

B. Procurement Lobbying Termination

The State reserves the right to terminate any contract resulting from this Solicitation in the event it is found that the certification filed by the Bidder in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the State may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of the contract.

C. Effect of Termination

Any termination by the State under this section shall in no event constitute or be deemed a breach of any contract resulting from this Solicitation and no liability shall be incurred by or arise against the Division of Human Rights, its agents and employees therefore for lost profits or any other damages.

6.10 New York State Vendor File Registration

Prior to being awarded a contract pursuant to this Solicitation, the Bidder(s) must be registered in the New York State Vendor File (Vendor File) administered by OSC. This is a central registry for all vendors who do business with New York State agencies and the registration must be initiated by a State agency. Following the initial registration, unique New York State ten-digit vendor identification numbers will be assigned to your company for usage on all future transactions with New York State. Additionally, the Vendor File enables vendors to use the Vendor Self-Service application to manage all vendor information in one central location for all transactions related to the State of New York. If Bidder is already registered in the New York State Vendor File, list the ten-digit vendor ID number on the Contractor Information page included in Appendix B of this Solicitation.

If the Bidder is not currently registered in the Vendor File and is recommended for award, OGS shall request completion of OSC Substitute W-9 Form. A fillable form with instructions can be found at the link below. OGS will initiate the vendor registration process for all Bidders recommended for contract award. Once the process is initiated, registrants will receive an e-mail from OSC that includes the unique ten-digit vendor identification number assigned to the company and instructions on how to enroll in the online Vendor Self-Service application. For more information on the vendor file please visit the following website: <http://www.osc.state.ny.us/vendors/index.htm>

Form to be completed: <https://www.osc.state.ny.us/sites/default/files/vendors/2017-11/vendor-form-ac3237s-fe.pdf>

6.11 New York State Vendor Responsibility Questionnaire

OGS conducts a review of prospective Contractors ("Proposers") to provide reasonable assurances that the Proposer is responsive and responsible. A For-Profit Business Entity Questionnaire (hereinafter "Questionnaire") is used for non-construction contracts and is designed to provide information to assess a Proposer's responsibility to conduct business in New York based upon financial and organizational capacity, legal authority, business integrity, and past performance history. By submitting a bid, Proposer

agrees to fully and accurately complete the Questionnaire. The Proposer acknowledges that the State's execution of the Contract will be contingent upon the State's determination that the Proposer is responsible, and that the State will be relying upon the Proposer's responses to the Questionnaire when making its responsibility determination.

OGS recommends each Proposer file the required Questionnaire online via the New York State VendRep System. To enroll in and use the VendRep System, please refer to the VendRep System Instructions and User Support for Vendors available at the Office of the State Comptroller's (OSC) website, <https://www.osc.state.ny.us/vendrep/index.htm> or to enroll, go directly to the VendRep System online at https://www.osc.state.ny.us/vendrep/info_vrsystem.htm.

OSC provides direct support for the VendRep System through user assistance, documents, online help, and a help desk. The OSC Help Desk contact information is located at <http://www.osc.state.ny.us/portal/contactbuss.htm>. Proposers opting to complete the paper questionnaire can access this form and associated definitions via the OSC website at: http://www.osc.state.ny.us/vendrep/forms_vendor.htm.

In order to assist the State in determining the responsibility of the Proposer prior to Contract Award, the Proposer must complete and certify (or recertify) the Questionnaire no more than six months prior to the bid due date. A Proposer's Questionnaire cannot be viewed by OGS until the Proposer has certified the Questionnaire. It is recommended that all Proposers become familiar with all of the requirements of the Questionnaire in advance of the bid opening to provide sufficient time to complete the Questionnaire.

The Proposer agrees that if it is awarded a Contract the following shall apply:

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the OGS Commissioner or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

The OGS Commissioner and/or the DHR Commissioner or their designee(s), in their sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when they discover information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the OGS Commissioner and/or the DHR Commissioner or their designee(s) issues a written notice authorizing a resumption of performance under the Contract.

Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate State officials or staff, the Contract may be terminated by the OGS Commissioner and/or the DHR Commissioner or their designee(s) at the Contractor's expense where the Contractor is determined by the OGS Commissioner and/or the DHR Commissioner or their designee(s) to be non-responsible. In such event, the OGS Commissioner and/or the DHR Commissioner or their designee(s) may complete the contractual requirements in any manner they may deem advisable and pursue available legal or equitable remedies for breach.

In no case shall such termination of the Contract by the State be deemed a breach thereof, nor shall the State be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination.

6.12 Ethics Compliance

All Proposers/Contractors and their employees must comply with the requirements of §§73 and 74 of the Public Officers Law, other state codes, rules, regulations, and executive orders establishing ethical standards for the conduct of business with New York State. In signing any contract resulting from this RFP, the Contractor certifies full compliance with those provisions for any present or future dealings, transactions, sales, contracts, Services, offers, relations, etc., involving New York State and/or its employees. Failure to comply with those provisions may result in disqualification from the bidding process, termination of contract, and/or other civil or criminal proceedings as required by law.

6.13 Indemnification

The Contractor shall assume all risks of liability for its performance, or that of any of its officers, employees, Subcontractors or agents, of any contract resulting from this Solicitation and shall be solely responsible and liable for all liabilities, losses, damages, costs or expenses, including attorney's fees, arising from any claim, action or proceeding relating to or in any way connected with the performance of any contract resulting from this Solicitation and covenants and agrees to indemnify and hold harmless the State of New York, its agents, officers and employees, from any and all claims, suits, causes of action and losses of whatever kind and nature, arising out of or in connection with its performance of any contract resulting from this Solicitation, including negligence, active or passive or improper conduct of the Contractor, its officers, agents, Subcontractors or employees, or the failure by the Contractor, its officers, agents, Subcontractors or employees to perform any obligations or commitments to the State or third parties arising out of or resulting from any contract resulting from this Solicitation. Such indemnity shall not be limited to the insurance coverage herein prescribed. This section shall survive termination of any contract resulting from this Solicitation.

6.14 Force Majeure

Neither party hereto will be liable for losses, defaults, or damages under any contract resulting from this Solicitation which result from delays in performing, or inability to perform, all or any of the obligations or responsibilities imposed upon it pursuant to the terms and conditions of this Solicitation, due to or because of acts of God, the public enemy, acts of government, earthquakes, floods, strikes, civil strife, fire or any other cause beyond the reasonable control of the party that was so delayed in performing or so unable to perform provided that such party was not negligent and shall have used reasonable efforts to avoid and overcome such cause. Such party will resume full performance of such obligations and responsibilities promptly upon removal of any such cause.

6.15 Encouraging Use of New York State Businesses in Contract Performance

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of the economic activity and leadership such businesses offer, Contractors are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. Such partnering may be as Subcontractors, suppliers, protégés or other supporting roles.

Proposers need to be aware that all authorized users of the contract will be strongly encouraged, to the maximum extent practical and consistent with legal requirements, to use responsible and responsive New York State businesses in purchasing commodities that are of equal quality and functionality and in utilizing Services and technology. Furthermore, Proposers are reminded that they must continue to utilize small, minority and women-owned businesses, consistent with current State law.

Utilizing New York State businesses in State contracts will help create more private sector jobs, rebuild New York's infrastructure, and maximize economic activity to the mutual benefit of the Contractor and its New York State business partners. New York State businesses will promote the Contractor's optimal performance under the contract, thereby fully benefiting the public-sector programs that are supported by associated procurements.

Public procurements can drive and improve the State's economic engine through promotion of the use of New York businesses by its Contractors. The State therefore expects Proposers to provide maximum assistance to New York businesses in their use of the contract. The potential participation by all kinds of New York businesses will deliver great value to the State and its taxpayers.

6.16 Sexual Harassment Prevention

Pursuant to N.Y. State Finance Law § 139-I, every bid made on or after January 1, 2019 to the State or any public department or agency thereof, where competitive bidding is required by statute, rule or regulation, for work or Services performed or to be performed or goods sold or to be sold, and where otherwise required by such public department or agency, shall contain a certification that the Bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of N.Y. State Labor Law § 201-g.

N.Y. State Labor Law § 201-g provides requirements for such policy and training and directs the Department of Labor, in consultation with the Division of Human Rights, to create and publish a model sexual harassment prevention guidance document, sexual harassment prevention policy and sexual harassment prevention training program that employers may utilize to meet the requirements of N.Y. State Labor Law § 201-g. The model sexual harassment prevention policy, model sexual harassment training materials, and further guidance for employers, can be found online at the following URL: <https://www.ny.gov/combating-sexual-harassment-workplace/employers>.

Pursuant to N.Y. State Finance Law § 139-I, any bid by a corporate Bidder containing the certification required above shall be deemed to have been authorized by the board of directors of such Bidder, and such authorization shall be deemed to include the signing and submission of such bid and the inclusion therein of such statement as the act and deed of the Bidder.

If the Bidder cannot make the required certification, such Bidder shall so state and shall furnish with the bid a signed statement that sets forth in detail the reasons that the Bidder cannot make the certification. After review and consideration of such statement, OGS may reject the bid or may decide that there are sufficient reasons to accept the bid without such certification.

The certification required above can be found on Appendix B – Required Forms, which Bidder must submit with its bid.

6.17 Employee Information to be Reported by Certain Consultant Contractors

Chapter 10 of the Laws of 2006 amended the Civil Service Law and the State Finance Law, relative to maintaining certain information concerning contract employees working under State agency service and consulting contracts. State agency consultant contracts are defined as “contracts entered into by a state agency for *analysis, evaluation, research, training, data processing, computer programming, engineering, environmental health and mental health services, accounting, auditing, paralegal, legal, or similar services*” (“covered consultant contract” or “covered consultant Services”). The amendments also require that certain contract employee information be provided to the State agency awarding such contracts, the Office of the State Comptroller (OSC), the Division of the Budget and the Department of Civil Service (CS). The effective date of these amendments is June 19, 2006. The requirements will apply to covered contracts awarded on and after such date.

To meet these new requirements, the Contractor agrees to complete:

Form A - the Contractor’s Planned Employment Form upon bid submittal.

Form B - the Contractor’s Annual Employment Report throughout the term of the Contract by May 1st of each year. The following information must be reported:

For each covered consultant contract in effect at any time between the preceding April 1st through March 31st fiscal year or for the period of time such contract was in effect during such prior State fiscal year:	1. Total number of employees employed to provide the consultant Services, by employment category.
	2. Total number of hours worked by such employees.
	3. Total compensation paid to all employees that performed consultant Services under such Contract. *

(Information must be reported on the Contractor’s Annual Employment Report (Form B) or other format stipulated by OGS.)

*NOTE: The information to be reported is applicable only to those employees who are directly providing Services or directly performing covered consultant Services. However, such information shall also be provided relative to employees of Subcontractors who perform any part of the service contract or any part of the covered consultant contract. This information does not have to be collected and reported in circumstances where there is ancillary involvement of an employee in a clerical, support, organizational or other administrative capacity.

The Contractor agrees to simultaneously report such information via Form B to the Department of Civil Service, the Office of the State Comptroller and the Office of General Services as designated below:

Department of Civil Service Alfred E. Smith Office Building	Office of the State Comptroller Bureau of Contracts	Office of General Services Financial Administration- Agency Procurement Office
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Albany, NY 12239	110 State St, 11th floor Albany, NY 12236 Attn: Consultant Reporting	32nd Floor – Corning Tower Empire State Plaza Albany, NY 12242
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The Contractor is advised herein and understands that this information is available for public inspection and copying pursuant to §87 of the New York State Public Officers Law (Freedom of Information Law). In the event individual employee names or social security numbers are set forth on a document, the State agency making such disclosure is obligated to redact both the name and social security number prior to disclosure.

6.18 Information Security Breach

In accordance with the Information and Security Breach Notification Act (ISBNA) (Chapter 442 of the Laws of 2005, as amended by Chapter 491 of the Laws of 2005), a Contractor with DHR shall be responsible for all applicable provisions of the ISBNA and the following terms herein with respect to any private information (as defined in the ISBNA) received by or on behalf of DHR under any contract resulting from this Solicitation.

- A. The Contractor shall supply DHR with a copy of its notification policy, which shall be modified to be in compliance with this provision, as well as DHR's notification policy.
- B. The Contractor must encrypt any database fields and backup tapes that contain private data elements, as set forth in the ISBNA.
- C. The Contractor must ensure that private data elements are encrypted in transit to / from their systems.
- D. In general, the Contractor must ensure that private data elements are not displayed to users on computer screens or in printed reports; however, specific users who are authorized to view the private data elements and who have been properly authenticated may view/receive such data.
- E. The Contractor must monitor for breaches of security to any of its systems that store or process private data owned by the State.
- F. The Contractor shall take all steps as set forth in ISBNA to ensure private information shall not be released without authorization from the State.
- G. In the event a security breach occurs as defined by ISBNA, the Contractor shall immediately notify DHR and commence an investigation in cooperation with DHR to determine the scope of the breach.
- H. The Contractor shall also take immediate and necessary steps needed to restore the information security system to prevent further breaches.
- I. The Contractor shall immediately notify DHR following the discovery that DHR's system security has been breached.
- J. Unless the Contractor is otherwise instructed, Contractor is to first seek consultation and receive authorization from DHR prior to notifying the individuals whose personal identity information was compromised by the breach of security, the New York State Chief Information Security Office, the Department of State Division of Consumer Protection, the Attorney General's Office or any consuming

reporting agencies of a breach of the information security system or concerning any determination to delay notification for law enforcement investigations.

- K. The Contractor shall be responsible for providing all notices required by the ISBNA and for all costs associated with providing said notices.
- L. This policy and procedure shall not impair the ability of the Attorney General to bring an action against the Contractor to enforce all provisions of the ISBNA or limit the Contractor's liability for any violations of the ISBNA.

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

**PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.**

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STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, “the contract” or “this contract”) agree to be bound by the following clauses which are hereby made a part of the contract (the word “Contractor” herein refers to any party other than the State, whether a contractor, licenser, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State’s previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller’s approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor’s business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State’s prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER’S APPROVAL. In accordance with Section 112 of the State Finance Law, if this contract exceeds \$50,000 (or \$75,000 for State University of New York or City University of New York contracts for goods, services, construction and printing, and \$150,000 for State University Health Care Facilities) or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$25,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller’s approval of contracts let by the Office of General Services, either for itself or its customer agencies by the Office of General Services Business Services Center, is required when such contracts exceed \$85,000. Comptroller’s approval of contracts established as centralized contracts through the Office of General Services is required when such contracts exceed \$125,000, and when a purchase order or other procurement transaction issued under such centralized contract exceeds \$200,000.

4. WORKERS’ COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers’ Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment, nor subject any individual to harassment, because of age, race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor’s employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in

accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2 NYCRR § 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, the "Records"). The Records

must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

In accordance with Section 312 of the Executive Law and 5 NYCRR Part 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "(a), (b) and (c)" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not

apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this clause. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this

law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in § 165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority- and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business and Technology Development
625 Broadway
Albany, New York 12245
Telephone: 518-292-5100

A directory of certified minority- and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue 33rd Floor
New York, NY 10017
646-846-7364
email: mwbebusinessdev@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/searchcertifieddirectory.asp>

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)-(p)) requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority- and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 2023, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law §§ 899-aa and 899-bb and State Technology Law § 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4)(g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING. To the extent this agreement is a “procurement contract” as defined by State Finance Law §§ 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.

To the extent this agreement is a contract as defined by Tax Law § 5-a, if the contractor fails to make the certification required by Tax Law § 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law § 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law § 165-a that it is not on the “Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012” (“Prohibited Entities List”) posted at: <https://ogs.ny.gov/iran-divestment-act-2012>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law § 165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

27. ADMISSIBILITY OF REPRODUCTION OF CONTRACT. Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.

Solicitation

Appendix B – Required Forms

Required Forms – Table of Contents

The following required forms are to be submitted with the proposer's proposal. The forms include:

- ☐ Contractor Information Page
- ☐ Corporate Acknowledgement (must be notarized)
- ☐ Offerer's Affirmation of Understanding of and Agreement pursuant to New York State Finance Law §139-j (3) and §139-j (6) (b)
- ☐ Offerer Disclosure of Prior Non-Responsibility Determinations
- ☐ Offerer's Certification of Compliance with State Finance Law §139-k(5)
- ☐ NYS Required Certifications
 - Nondiscrimination In Employment In Northern Ireland Macbride Fair Employment Principles
 - Non-Collusive Bidding Certification
 - Diesel Emission Reduction Act
 - Executive Order No 177 Certification
 - State Finance Law § 139-I Certification
 - Small Business Certification
- ☐ Certification Under Executive Order No. 16- Prohibiting State Agencies and Authorities from Contracting with Businesses Conducting Business in Russia
- ☐ ST-220 -TD Taxation & Finance Contractor Certification
(Submitted directly to Taxation & Finance)
- ☐ ST-220 -CA Taxation and Finance Covered Agency Certification
- ☐ EEO 100- Equal Employment Opportunity Staffing Plan
- ☐ MWBE 100- MWBE Utilization Plan
- ☐ SDVOB Utilization Plan
- ☐ Contract Consultant Forms A and B

Contractor Information

Solicitation Number

Offerer affirms that it understands and agrees to comply with the procedures of the Government Entity relative to permissible contacts as required by New York State Finance Law §139-j (3) and §139-j (6) (b).

Authorized Signature		Date	
Print Name		Title	
Company Name			
Federal ID Number		NYS Vendor ID Number	
Address			
City	State	Zip	County
Telephone Number	Ext	Toll Free Telephone	Ext
Fax Number	Toll Free Fax Number		
Email of Designated Contact			

Please identify if any of the following apply:

New York State Small Business as defined in Executive Law Section 310(20) and as detailed in the "New York State Required Certifications" included in Appendix B herein.	Yes	No
New York State Certified Minority Owned Business	Yes	No
New York State Certified Woman Owned Business	Yes	No
New York State Certified Service-Disabled Veteran-Owned Business	Yes	No
Do you understand and is your firm capable of meeting the insurance requirements to enter into a contract with New York State?	Yes	No
Will New York State Businesses be used in the performance of this contract?	Yes	No
If yes, identify New York State Business(es) that will be used; (Attach identifying information).		
Does your proposal meet all the requirements of this solicitation?	Yes	No

<p>Is your firm making a claim that any portions of its bid should be exempt from release under the Freedom of Information Law, as they constitute trade secrets, or information the disclosure of which would cause a substantial injury to your firm's competitive position? (Please review the clause entitled "Freedom of Information Law / Trade Secrets" of this Solicitation before answering).</p>	<p>Yes</p>	<p>No</p>
<p>If "Yes", please identify the specific portions of your bid for which you are claiming this exemption, and the reasons for such claimed exemption. Attach additional sheets, if necessary</p>		

INDIVIDUAL, CORPORATION, PARTNERSHIP, OR LLC
ACKNOWLEDGMENT

STATE OF _____ }
: **SS.:**

COUNTY OF _____ }

On the ____ day of _____ in the year 20__ , before me personally appeared _____, known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that _he maintains an office at _____,
Town of _____ , County of _____ ,
State of _____ ; and further that:

[Check One]

(☐ **If an individual**): _he executed the foregoing instrument in his/her name and on his/her own behalf.

(☐ **If a corporation**): _he is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

(☐ **If a partnership**): _he is the _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.

(☐ **If a limited liability company**): _he is a duly authorized member of _____, LLC, the limited liability company described in said instrument; that _he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

Notary Public

Registration No. _____

State of: _____

Offerer's Affirmation of Understanding of and Agreement pursuant to New York State Finance Law §139-j (3) and §139-j (6) (b)

New York State Finance Law §139-j(6)(b) provides that:

Every Governmental Entity shall seek written affirmations from all Offerers as to the Offerer's understanding of and agreement to comply with the Governmental Entity's procedures relating to permissible contacts during a Governmental Procurement pursuant to subdivision three of this section.

Offerer affirms that it understands and agrees to comply with the procedures of the Government Entity relative to permissible contacts as required by New York State Finance Law §139-j (3) and §139-j (6) (b).			
Authorized Signature		Date	
Print Name		Title	
Company Name			
Address			
City	State	Zip	

Offerer Disclosure of Prior Non-Responsibility Determinations

Background:

New York State Finance Law §139-k(2) obligates a Governmental Entity to obtain specific information regarding prior non-responsibility determinations with respect to State Finance Law §139-j. This information must be collected in addition to the information that is separately obtained pursuant to State Finance Law §163(9). In accordance with State Finance Law §139-k, an Offerer must be asked to disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any Governmental Entity due to: (a) a violation of State Finance Law §139-j or (b) the intentional provision of false or incomplete information to a Governmental Entity. The terms “Offerer” and “Governmental Entity” are defined in State Finance Law § 139-k(1). State Finance Law §139-j sets forth detailed requirements about the restrictions on Contacts during the procurement process. A violation of State Finance Law §139-j includes, but is not limited to, an impermissible Contact during the restricted period (for example, contacting a person or entity other than the designated contact person, when such contact does not fall within one of the exemptions).

As part of its responsibility determination, State Finance Law §139-k(3) mandates consideration of whether an Offerer fails to timely disclose accurate or complete information regarding the above non-responsibility determination. In accordance with law, no Procurement Contract shall be awarded to any Offerer that fails to timely disclose accurate or complete information under this section, unless a finding is made that the award of the Procurement Contract to the Offerer is necessary to protect public property or public health safety, and that the Offerer is the only source capable of supplying the required Article of Procurement within the necessary timeframe. See State Finance Law §§139-j (10)(b) and 139-k(3).

Instructions:

A Governmental Entity must include a disclosure request regarding prior non-responsibility determinations in accordance with State Finance Law §139-k in its solicitation of proposals or bid documents or specifications or contract documents, as applicable, for procurement contracts. The attached form is to be completed and submitted by the individual or entity seeking to enter into a Procurement Contract. It shall be submitted to the Governmental Entity conducting the Governmental Procurement.

Offerer Disclosure of Prior Non-Responsibility Determinations

Name of Individual or Entity Seeking to Enter into the Procurement Contract			
Address			
City	State	Zip	
Person Submitting this Form	Title	Date	Contract Procurement Number

1. Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years?	No	Yes
<i>If yes, please answer questions 2-4 before proceeding to question 5. If no, please go to question 5.</i>		
2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j	No	Yes
3. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity?	No	Yes
4. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.		
Governmental Entity		Date of Finding of Non-responsibility
Basis of Finding of Non-Responsibility (Add additional pages as necessary)		
5. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information?	No	Yes
6. If yes, please provide details below.		
Governmental Entity		Date of Termination or Withholding of Contract
Basis of Termination or Withholding (Add additional pages as necessary)		

Offerer certifies that all information provided to the Governmental Entity with respect to State Finance Law §139-k is complete, true and accurate.

By: _____ Date: _____
Signature

Offerer's Certification of Compliance with State Finance Law §139-k(5)

New York State Finance Law §139-k(5) requires that every Procurement Contract award subject to the provisions of State Finance Law §§139-k or 139-j shall contain a certification by the Offerer that all information provided to the Office of General Services with respect to State Finance Law §139-k is complete, true and accurate.

Offerer Certification:			
<i>I certify that all information provided to the Office of General Services with respect to State Finance Law §139-k is complete, true and accurate.</i>			
Authorized Signature		Date	
Print Name		Title	
Company Name			
Address			
City	State	Zip	

Procurement Lobbying Termination

The Office of General Services reserves the right to terminate this contract in the event it is found that the certification filed by the Offerer in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the Office of General Services may exercise its termination right by providing written notification to the Offerer in accordance with the written notification terms of this contract.

NYS REQUIRED CERTIFICATIONS

Nondiscrimination In Employment In Northern Ireland Macbride Fair Employment Principles

In accordance with Section 165 of the State Finance Law, the bidder, by submission of this bid, certifies that it or any individual or legal entity in which the bidder holds a 10% or greater ownership interest, or any individual or legal entity that holds a 10% or greater ownership interest in the bidder, either (answer yes or no to one or both of the following, as applicable):

- | | | | |
|--|----|-----|---------------|
| 1. have business operations in Northern Ireland | No | Yes | , and if yes: |
| 2. shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles relating to nondiscrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring of compliance with such principles. | | | |
| | No | Yes | |

Non-Collusive Bidding Certification

In accordance with Section 139-d of the State Finance Law, by submitting its bid each bidder and each person signing on behalf of any other bidder certifies, and in the case of a joint bid, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his or her knowledge and belief:

1. The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor.
2. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor.
3. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

In the event that the Bidder is unable to certify as stated above, the Bidder shall provide a signed statement which sets forth in detail the reasons why the Bidder is unable to furnish the certificate as required in accordance with State Finance Law § 139-d(1)(b).

Diesel Emission Reduction Act

Pursuant to N.Y. Environmental Conservation Law § 19-0323 (the "Law") it is a requirement that heavy duty diesel vehicles in excess of 8,500 pounds use the best available retrofit technology ("BART") and ultra-low sulfur diesel fuel ("ULSD"). The requirement of the Law applies to all vehicles owned, operated by or on behalf of, or leased by State agencies and State or regional public authorities. It also requires that such vehicles owned, operated by or on behalf of, or leased by State agencies and State or regional public authorities with more than half of its governing body appointed by the Governor utilize BART.

The Law may be applicable to vehicles used by contract vendors "on behalf of" State agencies and public authorities and require certain reports from contract vendors. All heavy duty diesel vehicles must have BART by the deadline provided in the Law. The Law also provides a list of exempted vehicles. Regulations

set forth in 6 NYCRR Parts 248 and 249 provide further guidance. The Bidder hereby certifies and warrants that all heavy duty vehicles, as defined in the Law, to be used under this contract, will comply with the specifications and provisions of the Law, and 6 NYCRR Parts 248 and 249.

Executive Order No. 177 Certification

The New York State Human Rights Law, Article 15 of the Executive Law, prohibits discrimination and harassment based on age, race, creed, color, national origin, sex, pregnancy or pregnancy-related conditions, sexual orientation, gender identity, disability, marital status, familial status, domestic violence victim status, prior arrest or conviction record, military status or predisposing genetic characteristics.

The Human Rights Law may also require reasonable accommodation for persons with disabilities and pregnancy-related conditions. A reasonable accommodation is an adjustment to a job or work environment that enables a person with a disability to perform the essential functions of a job in a reasonable manner. The Human Rights Law may also require reasonable accommodation in employment on the basis of Sabbath observance or religious practices.

Generally, the Human Rights Law applies to:

- all employers of four or more people, employment agencies, labor organizations and apprenticeship training programs in all instances of discrimination or harassment;
- employers with fewer than four employees in all cases involving sexual harassment; and,
- any employer of domestic workers in cases involving sexual harassment or harassment based on gender, race, religion or national origin.

In accordance with Executive Order No. 177, the Bidder hereby certifies that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law.

Executive Order No. 177 and this certification do not affect institutional policies or practices that are protected by existing law, including but not limited to the First Amendment of the United States Constitution, Article 1, Section 3 of the New York State Constitution, and Section 296(11) of the New York State Human Rights Law.

State Finance Law § 139-I Certification

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the labor law.

If the bidder cannot make the foregoing certification, such bidder shall so state and shall furnish with the bid a signed statement that sets forth in detail the reasons that the bidder cannot make the certification.

Small Business Certifications

State Finance Law § 163(1)(j) (Authorizes Award of Quantitative Factor Credit for Small Business Status in Evaluation for Best Value Contracts)

For purposes of New York State Finance Law § 163(1)(j), the contractor certifies that it:

___ **IS NOT** a Small Business as defined in New York State Executive Law § 310(20).

___ **IS** a Small Business as defined in New York State Executive Law § 310(20).

"Small Business" is defined under New York State Executive Law § 310(20) as a business that:

- A. has a significant business presence in New York demonstrated through one of the following:
 - 1. pays taxes in New York State, or
 - 2. purchases New York State products or materials, or
 - 3. has any payroll in New York State
- B. is independently owned and operated;
- C. is not dominant in its field; and,
- D. employs less than 300 persons.

State Finance Law § 163(6) (Authorizes Discretionary Purchases of Commodities or Services from Small Business Concerns)

For purposes of New York State Finance Law § 163(6), the contractor certifies that it:

___ **IS NOT** a Small Business Concern or Small Business as defined in New York State Finance Law § 160(8).

___ **IS** a Small Business Concern or Small Business as defined in New York State Finance Law § 160(8).

"Small Business Concern" or "Small Business" is defined under New York State Finance Law § 160(8) as a business that:

- A. is resident in New York State;
- B. is independently owned and operated;
- C. is not dominant in its field; and
- D. employs 100 or less persons.

By signing you certify your express authority to sign on behalf of yourself, your company, or other entity and full knowledge and acceptance of this Certifications document and that all information provided is complete, true and accurate.

Authorized Signature		Date	
Print Name		Title	
Company Name			
D/B/A – Doing Business As (if applicable)			
Address			
City	State	Zip	

Certification Under Executive Order No. 16- Prohibiting State Agencies and Authorities from Contracting with Businesses Conducting Business in Russia

Executive Order No. 16 provides that “all Affected State Entities are directed to refrain from entering into any new contract or renewing any existing contract with an entity conducting business operations in Russia.” The complete text of Executive Order No. 16 can be found [here](#).

The Executive Order remains in effect while sanctions imposed by the federal government are in effect. Accordingly, vendors who may be excluded from award because of current business operations in Russia are nevertheless encouraged to respond to solicitations to preserve their contracting opportunities in case the sanctions are lifted during a solicitation or even after award in the case of some solicitations.

As defined in Executive Order No. 16, an “entity conducting business operations in Russia” means an institution or company, wherever located, conducting any commercial activity in Russia or transacting business with the Russian Government or with commercial entities headquartered in Russia or with their principal place of business in Russia in the form of contracting, sales, purchasing, investment, or any business partnership.

Is Vendor an entity conducting business operations in Russia, as defined above? Please answer by checking one of the following boxes:

1. No, Vendor does not conduct business operations in Russia within the meaning of Executive Order No. 16.
- 2.a. Yes, Vendor conducts business operations in Russia within the meaning of Executive Order No. 16 but has taken steps to wind down business operations in Russia or is in the process of winding down business operations in Russia. (Please provide a detailed description of the wind down process and a schedule for completion.)
- 2.b. Yes, Vendor conducts business operations in Russia within the meaning of Executive Order No. 16 but only to the extent necessary to provide vital health and safety services within Russia or to comply with federal law, regulations, executive orders, or directives. (Please provide a detailed description of the services being provided or the relevant laws, regulations, etc.)
3. Yes, Vendor conducts business operations in Russia within the meaning of Executive Order No. 16.

The undersigned certifies under penalties of perjury that they are knowledgeable about the Vendor’s business and operations and that the answer provided herein is true to the best of their knowledge and belief.

Authorized Signature		Date	
Print Name		Title	
Company Name			
Address			
City	State	Zip	

NYS Department of Taxation and Finance - FORMS

CONTRACTOR CERTIFICATION (ST-220-TD 12/11)
CONTRACTOR CERTIFICATION TO COVERED AGENCY
(ST-220-CA 12/11)

**Contractor Certification**(Pursuant to Tax Law Section 5-a, as amended,
effective April 26, 2006)**ST-220-TD**

(4/15)

For information, consult Publication 223, *Questions and Answers Concerning Tax Law Section 5-a* (see *Need help?* below).

Contractor name		
Contractor's principal place of business	City	State ZIP code
Contractor's mailing address (if different than above)	City	State ZIP code
Contractor's federal employer identification number (EIN)	Contractor's sales tax ID number (if different from contractor's EIN)	Contractor's telephone number ()
Covered agency or state agency	Contract number or description	Covered agency telephone number ()
Covered agency address	City	State ZIP code
Is the estimated contract value over the full term of the contract (but not including renewals) more than \$100,000? Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown at this time <input type="checkbox"/>		

General information

Tax Law section 5-a, as amended, effective April 26, 2006, requires certain contractors awarded certain state contracts valued at more than \$100,000 to certify to the Tax Department that they are registered to collect New York State and local sales and compensating use taxes, if they made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000, measured over a specified period. In addition, contractors must certify to the Tax Department that each affiliate and subcontractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. Contractors must also file Form ST-220-CA, *Contractor Certification to Covered Agency*, certifying to the procuring state entity that they filed Form ST-220-TD with the Tax Department and that the information contained on Form ST-220-TD is correct and complete as of the date they file Form ST-220-CA.

All sections must be completed including all fields on the top of this page, all sections on page 2, Schedule A on page 3, if applicable, and *Individual, Corporation, Partnership, or LLC Acknowledgement* on page 4. If you do not complete these areas, the form will be returned to you for completion.

For more detailed information regarding this form and Tax Law section 5-a, see Publication 223, *Questions and Answers Concerning Tax Law Section 5-a, (as amended, effective April 26, 2006)*. See *Need help?* for more information on how to obtain this publication.

Note: Form ST-220-TD must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 4 of this form must be completed before a notary public.

Mail completed form to:

**NYS TAX DEPARTMENT
DATA ENTRY SECTION
W A HARRIMAN CAMPUS
ALBANY NY 12227-0826**

Privacy notification

New York State Law requires all government agencies that maintain a system of records to provide notification of the legal authority for any request, the principal purpose(s) for which the information is to be collected, and where it will be maintained. To view this information, visit our Web site, or, if you do not have Internet access, call and request Publication 54, *Privacy Notification*. See *Need help?* for the Web address and telephone number.

Need help?Visit our Web site at **www.tax.ny.gov**

- get information and manage your taxes online
- check for new online services and features

**Telephone assistance****Sales Tax** Information Center: (518) 485-2889

To order forms and publications: (518) 457-5431

Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): (518) 485-5082

Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, call the information center.

I, _____, hereby affirm, under penalty of perjury, that I am _____
(name) (title)
of the above-named contractor, and that I am authorized to make this certification on behalf of such contractor.

Complete Sections 1, 2, and 3 below. Make only one entry in each section.

Section 1 – Contractor registration status

- ☐ The contractor has made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made. The contractor is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to Tax Law sections 1134 and 1253, and is listed on Schedule A of this certification.
- ☐ The contractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Section 2 – Affiliate registration status

- ☐ The contractor does not have any affiliates.
- ☐ To the best of the contractor's knowledge, the contractor has one or more affiliates having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to Tax Law sections 1134 and 1253. The contractor has listed each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.
- ☐ To the best of the contractor's knowledge, the contractor has one or more affiliates, and each affiliate has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Section 3 – Subcontractor registration status

- ☐ The contractor does not have any subcontractors.
- ☐ To the best of the contractor's knowledge, the contractor has one or more subcontractors having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to Tax Law sections 1134 and 1253. The contractor has listed each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.
- ☐ To the best of the contractor's knowledge, the contractor has one or more subcontractors, and each subcontractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Sworn to this ____ day of _____, 20 ____

(sign before a notary public)

(title)

Schedule A – Listing of each entity (contractor, affiliate, or subcontractor) exceeding \$300,000 cumulative sales threshold

List the contractor, or affiliate, or subcontractor in Schedule A only if such entity exceeded the \$300,000 cumulative sales threshold during the specified sales tax quarters. See directions below. For more information, see Publication 223.

A Relationship to contractor	B Name	C Address	D Federal ID number	E Sales tax ID number	F Registration in progress

- Column A – Enter **C** in column A if the contractor; **A** if an affiliate of the contractor; or **S** if a subcontractor.
- Column B – Name - If the entity is a corporation or limited liability company, enter the exact legal name as registered with the NY Department of State, if applicable. If the entity is a partnership or sole proprietor, enter the name of the partnership and each partner’s given name, or the given name(s) of the owner(s), as applicable. If the entity has a different DBA (doing business as) name, enter that name as well.
- Column C – Address - Enter the street address of the entity’s principal place of business. Do not enter a PO box.
- Column D – ID number - Enter the federal employer identification number (EIN) assigned to the entity. If the entity is an individual, enter the social security number of that person.
- Column E – Sales tax ID number - Enter only if different from federal EIN in column D.
- Column F – If applicable, enter an X if the entity has submitted Form DTF-17 to the Tax Department but has not received its certificate of authority as of the date of this certification.

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF }
 : SS.:
COUNTY OF }

On the ____ day of _____ in the year 20____, before me personally appeared _____, known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that
_ he resides at _____,
Town of _____,
County of _____,
State of _____; and further that:

(Mark an X in the appropriate box and complete the accompanying statement.)

- ☐ (If an individual): _he executed the foregoing instrument in his/her name and on his/her own behalf.
- ☐ (If a corporation): _he is the _____
of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.
- ☐ (If a partnership): _he is a _____
of _____, the partnership described in said instrument; that, by the terms of said partnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.
- ☐ (If a limited liability company): _he is a duly authorized member of _____
LLC, the limited liability company described in said instrument; that _he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

Notary Public

Registration No. _____

**Contractor Certification to Covered Agency**

(Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

ST-220-CA

(12/11)

For information, consult Publication 223, Questions and Answers Concerning Tax Law Section 5-a (see Need Help? on back).

Contractor name				For covered agency use only Contract number or description		
Contractor's principal place of business		City	State			ZIP code
Contractor's mailing address (if different than above)						Estimated contract value over the full term of contract (but not including renewals)
Contractor's federal employer identification number (EIN)			Contractor's sales tax ID number (if different from contractor's EIN)			
Contractor's telephone number		Covered agency name				\$
Covered agency address					Covered agency telephone number	

I, _____, hereby affirm, under penalty of perjury, that I am _____
(name) (title)

of the above-named contractor, that I am authorized to make this certification on behalf of such contractor, and I further certify that:

(Mark an X in only one box)

☐ The contractor has filed Form ST-220-TD with the Department of Taxation and Finance in connection with this contract and, to the best of contractor's knowledge, the information provided on the Form ST-220-TD, is correct and complete.

☐ The contractor has previously filed Form ST-220-TD with the Tax Department in connection with _____
(insert contract number or description)

and, to the best of the contractor's knowledge, the information provided on that previously filed Form ST-220-TD, is correct and complete as of the current date, and thus the contractor is not required to file a new Form ST-220-TD at this time.

Sworn to this ____ day of _____, 20 ____

(sign before a notary public)

(title)

Instructions

General information

Tax Law section 5-a was amended, effective April 26, 2006. On or after that date, in all cases where a contract is subject to Tax Law section 5-a, a contractor must file (1) Form ST-220-CA, *Contractor Certification to Covered Agency*, with a covered agency, and (2) Form ST-220-TD with the Tax Department before a contract may take effect. The circumstances when a contract is subject to section 5-a are listed in Publication 223, Q&A 3. See *Need help?* for more information on how to obtain this publication. In addition, a contractor must file a new Form ST-220-CA with a covered agency before an existing contract with such agency may be renewed.

Note: Form ST-220-CA must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 2 of this form must be completed before a notary public.

When to complete this form

As set forth in Publication 223, a contract is subject to section 5-a, and you must make the required certification(s), if:

- The procuring entity is a *covered agency* within the meaning of the statute (see Publication 223, Q&A 5);
- The contractor is a *contractor* within the meaning of the statute (see Publication 223, Q&A 6); and
- The contract is a *contract* within the meaning of the statute. This is the case when it (a) has a value in excess of \$100,000 and (b) is a contract for *commodities* or *services*, as such terms are defined for purposes of the statute (see Publication 223, Q&A 8 and 9).

Furthermore, the procuring entity must have begun the solicitation to purchase on or after January 1, 2005, and the resulting contract must have been awarded, amended, extended, renewed, or assigned *on or after April 26, 2006* (the effective date of the section 5-a amendments).

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF _____ }
: _____ SS.:
COUNTY OF _____ }

On the ____ day of _____ in the year 20____, before me personally appeared _____, known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that _____ he resides at _____,

Town of _____,

County of _____,

State of _____; and further that:

[Mark an **X** in the appropriate box and complete the accompanying statement.]

☐ (If an individual): _____ he executed the foregoing instrument in his/her name and on his/her own behalf.

☐ (If a corporation): _____ he is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _____ he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _____ he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

☐ (If a partnership): _____ he is a _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, _____ he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, _____ he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.

☐ (If a limited liability company): _____ he is a duly authorized member of _____, LLC, the limited liability company described in said instrument; that _____ he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, _____ he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

Notary Public

Registration No.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

Need help?



Visit our Web site at **www.tax.ny.gov**

- get information and manage your taxes online
- check for new online services and features



Telephone assistance

Sales Tax Information Center: (518) 485-2889

To order forms and publications: (518) 457-5431

Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): (518) 485-5082



Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, call the information center.



EQUAL EMPLOYMENT OPPORTUNITY STAFFING PLAN

General instructions: Contact the Designated Contact(s) for the solicitation if you have any questions. **All Offerors** must complete an EEO Staffing Plan (EEO 100) and submit it as part of the bid or proposal package. Where the work force to be utilized in the performance of the State contract can be separated out from the contractor's total work force, the Offeror shall complete this form only for the anticipated work force to be utilized on the State contract. Where the work force to be utilized in the performance of the State contract cannot be separated out from the contractor's total work force, the Offeror shall complete this form for the contractor's total work force. Subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor must complete this form upon request of OGS.

Instructions for completing:

1. Enter the Solicitation Number that this report applies to along with the name and address of the Offeror.
2. Check off the appropriate box to indicate if the Offeror completing the report is the contractor or a subcontractor.
3. Check off the appropriate box to indicate if the work force being reported is just for the contract or the Offerors' total work force.
4. Enter the total work force by EEO job category.
5. Break down the total work force by gender and enter under the heading "Work force by Gender."
6. Break down the total work force by race/ethnic background and enter under the heading "Work force by Race/Ethnic Identification." Enter the name, title, phone number and email address for the person completing the form. Sign and date the form in the designated boxes.

RACE/ETHNIC IDENTIFICATION

Race/ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. For the purposes of this report, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this survey are:

WHITE - (Not of Hispanic origin) All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.

BLACK - A person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.

HISPANIC - A person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.

ASIAN & PACIFIC ISLANDER - A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.

AMERICAN INDIAN OR ALASKAN NATIVE (Not of Hispanic Origin) - A person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.



EQUAL EMPLOYMENT OPPORTUNITY STAFFING PLAN

SUBMIT WITH BID OR PROPOSAL or within a reasonable time thereafter as requested by OGS, but prior to Contract Award.

Solicitation No.:	Reporting Entity: <input type="checkbox"/> Contractor <input type="checkbox"/> Subcontractor	Report includes Contractor's <input type="checkbox"/> Contractor's work force to be utilized on this contract <input type="checkbox"/> Contractor's total work force <input type="checkbox"/> Subcontractor's work force to be utilized on this contract <input type="checkbox"/> Subcontractor's total work force
Contractor/Subcontractor's Name:		
Contractor/Subcontractor's Address:		
FEIN:		

Enter the total number of employees for each classification:

EEO Job Category	Total Work Force	Work force by Gender		Work force by Race/Ethnic Identification													
		Total Male (M)	Total Female (F)	White (M) (F)		Black (M) (F)		Hispanic (M) (F)		Asian (M) (F)		American Indian or Alaskan Native (M) (F)		Veteran (M) (F)		(M)	(F)
Executive/Senior level Officials & Managers																	
First/Mid-level officials & Managers																	
Professionals																	
Technicians																	
Sales Workers																	
Administrative Support Workers																	
Craft Workers																	
Operatives																	
Laborers and Helpers																	
Service Workers																	
Totals																	

PREPARED BY (Signature):	TELEPHONE NO.:	DATE:
	EMAIL ADDRESS:	
NAME AND TITLE OF PREPARER (Print or Type):		



**Office of
General Services**

**Office of Minority and Women-Owned
Business Enterprises**

Commodities and Services

Submit Completed Plan with your bid To:

NYS Office of General Services
Financial Administration – Agency Procurement Office
Corning Tower, 32nd Floor, ESP
Albany, New York 12242

Instructions for Submitting the MWBE Utilization Plan for Commodities and Services (Form MWBE 100)

Where required in the Solicitation and/or Contract, submit the completed Plan with your bid package on the stated date and time to:

NYS Office of General Services
Financial Administration – Agency Procurement Office
Corning Tower, 32nd Floor, ESP
Albany, New York 12242
Phone: 518-474-5981

Failure to submit the Plan or obtain a waiver could result in non-award of the Contract.

- **The Plan must contain a detailed description of the supplies and/or services to be provided by each MWBE subcontractor/supplier.**
 - **Complete all items on the form with the exception of the sections marked “For OGS MWBE Use Only.”**
 - **List New York State certified MBE/WBE firms only.** Only MBE/WBE firms certified by Empire State Development’s Division of Minority and Women’s Business Development can be used to meet MWBE Goals. Non-certified firms, or firms that are pending certification, cannot be used toward goal attainment until they are NYS certified.
 - **All listed subcontractors/suppliers will be contacted and verified by OGS.**
 - Bidders/Contractors may attach additional sheets if necessary.
2. To identify New York State certified MWBEs, access Empire State Development’s MWBE directory at: <https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp> For additional information regarding this directory, please call The Empire State Development Corporation at (212) 803-2414 (Downstate) or (518) 292-5250 (Upstate). Additionally, you may contact the OGS MWBE office designated contacts at (518) 486-9284 which will, upon request, provide you with a listing of certified MBE/WBE firms.
 3. Pursuant to 5 NYCRR § 142.8, Contractors must document their good faith efforts toward utilizing MWBEs on the Contract. Actions that do not constitute good faith efforts by Contractors to solicit NYS Certified MWBEs to participate in the Contract include, but are not limited to, the following:
 - (1) Self-performance of tasks on a project.
 - (2) Not engaging an MWBE because it did not submit the lowest quote for work or materials.
 4. OGS will review the submitted Plan and advise Bidder/Contractor of OGS’s acceptance or deficiency within twenty (20) days of its receipt. Bidder/Contractor shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to OGS a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by OGS to be inadequate, OGS shall notify Bidder/Contractor and direct Bidder/Contractor to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals on Form BDC 333. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal. The approved Plan will be posted on the OGS website within ten (10) days of Contract Award. Any changes to the Plan must be approved by OGS.



Office of
General Services

Office of Minority and Women-Owned
Business Enterprises

Commodities and Services

Submit Completed Plan with your bid To:

NYS Office of General Services
Financial Administration – Agency Procurement Office
Corning Tower, 32nd Floor, ESP
Albany, New York 12242

MWBE UTILIZATION PLAN

☐ Initial Plan ☐ Revised plan Contract/Solicitation # _____

INSTRUCTIONS: This Utilization Plan must contain a detailed description of the supplies and/or services to be provided by each NYS Certified Minority and Women-owned Business Enterprises (MWBE) under the contract. By submission of this Plan, the Bidder/Contractor commits to good faith efforts in the utilization of MWBE subcontractors and suppliers as required by the MBE/WBE goals contained in the Solicitation/Contract. Making false representations or including information evidencing a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Firms that do not perform commercially useful functions may not be counted toward MWBE utilization. Attach additional sheets if necessary.

BIDDER/CONTRACTOR INFORMATION

MWBE Goals In Contract

Bidder/Contractor Name:	NYS Vendor ID:	MBE	%
Bidder/Contractor Address (Street, City, State and Zip Code):		WBE	%
Bidder/Contractor Telephone Number:		Contract Work Location/Region:	
Contract Description/Title:			

CONTRACTOR INFORMATION

Prepared by (Signature):	Name and Title of Preparer:	Telephone Number:	Date:
Email Address:			

IF UNABLE TO MEET THE MBE AND WBE GOALS SET FORTH IN THE SOLICITATION/CONTRACT BIDDER/CONTRACTOR MUST SUBMIT A REQUEST FOR WAIVER (FORM BDC 333)

MWBE Subcontractor/Supplier Name:	MWBE Certification: <input type="checkbox"/> MBE <input type="checkbox"/> WBE (If firm is dual certified please select one only)		
Please identify the person you contacted:	Federal Identification No.:	Telephone No.:	
Address:	Email Address:		
Detailed Description of work to be provided by subcontractor/supplier:			
Dollar Value of subcontracts/supplies/services (When \$ value cannot be determined put estimated % of work under the contract or value TBD based on contractual spending): \$ _____ or _____%			

MWBE Subcontractor/Supplier Name:	MWBE Certification: <input type="checkbox"/> MBE <input type="checkbox"/> WBE (If firm is dual certified please select one only)		
Please identify the person you contacted:	Federal Identification No.:	Telephone No.:	
Address:	Email Address:		
Detailed Description of work to be provided by subcontractor/supplier:			
Dollar Value of subcontracts/supplies/services (When \$ value cannot be determined put estimated % of work under the contract or value TBD based on contractual spending): \$ _____ or _____%			

FOR OGS MWBE USE ONLY

OGS MWBE Authorized Signature:	<input type="checkbox"/> Accepted	<input type="checkbox"/> Accepted as Noted	<input type="checkbox"/> Notice of Deficiency
NAME (Please Print):	MBE %/\$ _____	WBE %/\$ _____	Date Received: _____
Date Processed: _____			
Comments:			

NYS CERTIFIED MWBE SUBCONTRACTOR/SUPPLIER INFORMATION: The directory of New York State Certified MWBEs can be viewed at: <https://ny.newnycontracts.com/FrontEnd/SupplierSearchPublic.asp?TN=ny&XID=2528>

Note: All listed Subcontractors/Suppliers will be contacted and verified by OGS.

ADDITIONAL SHEET

Bidder/Contractor Name:	Contract/Solicitation # _____
--------------------------------	--------------------------------------

MWBE Subcontractor/Supplier Name:	MWBE Certification: <input type="checkbox"/> MBE <input type="checkbox"/> WBE (If firm is dual certified please select one only)		
Please identify the person you contacted:	Federal Identification No.:	Telephone No.:	
Address:	Email Address:		
Detailed Description of work to be provided by subcontractor/supplier:			
Dollar Value of subcontracts/supplies/services (When \$ value cannot be determined put estimated % of work under the contract or value TBD based on contractual spending): \$ _____ or _____%			

MWBE Subcontractor/Supplier Name:	MWBE Certification: <input type="checkbox"/> MBE <input type="checkbox"/> WBE (If firm is dual certified please select one only)		
Please identify the person you contacted:	Federal Identification No.:	Telephone No.:	
Address:	Email Address:		
Detailed Description of work to be provided by subcontractor/supplier:			
Dollar Value of subcontracts/supplies/services (When \$ value cannot be determined put estimated % of work under the contract or value TBD based on contractual spending): \$ _____ or _____%			

MWBE Subcontractor/Supplier Name:	MWBE Certification: <input type="checkbox"/> MBE <input type="checkbox"/> WBE (If firm is dual certified please select one only)		
Please identify the person you contacted:	Federal Identification No.:	Telephone No.:	
Address:	Email Address:		
Detailed Description of work to be provided by subcontractor/supplier:			
Dollar Value of subcontracts/supplies/services (When \$ value cannot be determined put estimated % of work under the contract or value TBD based on contractual spending): \$ _____ or _____%			

MWBE Subcontractor/Supplier Name:	MWBE Certification: <input type="checkbox"/> MBE <input type="checkbox"/> WBE (If firm is dual certified please select one only)		
Please identify the person you contacted:	Federal Identification No.:	Telephone No.:	
Address:	Email Address:		
Detailed Description of work to be provided by subcontractor/supplier:			
Dollar Value of subcontracts/supplies/services (When \$ value cannot be determined put estimated % of work under the contract or value TBD based on contractual spending): \$ _____ or _____%			

MWBE Subcontractor/Supplier Name:	MWBE Certification: <input type="checkbox"/> MBE <input type="checkbox"/> WBE (If firm is dual certified please select one only)		
Please identify the person you contacted:	Federal Identification No.:	Telephone No.:	
Address:	Email Address:		
Detailed Description of work to be provided by subcontractor/supplier:			
Dollar Value of subcontracts/supplies/services (When \$ value cannot be determined put estimated % of work under the contract or value TBD based on contractual spending): \$ _____ or _____%			



SDVOB UTILIZATION PLAN

☐ Initial Plan ☐ Revised plan Contract/Solicitation # _____

INSTRUCTIONS: This Utilization Plan must contain a detailed description of the supplies and/or services to be provided by each NYS **Certified** Service-Disabled Veteran-Owned Business (SDVOB) under the contract. By submission of this Plan, the Bidder/Contractor commits to making good faith efforts in the utilization of SDVOB subcontractors and suppliers as required by the SDVOB goals contained in the Solicitation/Contract. Making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Firms that do not perform commercially useful functions may not be counted toward SDVOB utilization. Attach additional sheets if necessary.

BIDDER/CONTRACTOR INFORMATION

SDVOB Goals In Contract

Bidder/Contractor Name:

NYS Vendor ID:

%

Bidder/Contractor Address (Street, City, State and Zip Code):

Bidder/Contractor Telephone Number:

Contract Work Location/Region:

Contract Description/Title:

CONTRACTOR INFORMATION

Prepared by (Signature):

Name and Title of Preparer:

Telephone Number:

Date:

Email Address:

If unable to meet the SDVOB goals set forth in the solicitation/contract, bidder/contractor must submit a request for waiver on the SDVOB Waiver Form.

SDVOB Subcontractor/Supplier Name:

Please identify the person you contacted:

Federal Identification No.:

Telephone No.:

Address:

Email Address:

Detailed description of work to be provided by subcontractor/supplier:

Dollar Value of subcontracts/supplies/services (When \$ value cannot be estimated, provide the estimated % of contract work the SDVOB will perform): \$ _____ or _____ %

SDVOB Subcontractor/Supplier Name:

Please identify the person you contacted:

Federal Identification No.:

Telephone No.:

Address:

Email Address:

Detailed Description of work to be provided by subcontractor/supplier:

Dollar Value of subcontracts/supplies/services (When \$ value cannot be estimated, provide the estimated % of contract work the SDVOB will perform): \$ _____ or _____ %

FOR OGS USE ONLY

OGS Authorized Signature:

☐ Accepted

☐ Accepted as Noted

☐ Notice of Deficiency

NAME (Please Print):

SDVOB
%/\$ _____

Date Received:

Date Processed:

Comments:

NYS CERTIFIED SDVOB SUBCONTRACTOR/SUPPLIER INFORMATION: The directory of New York State Certified SDVOBs can be viewed at: <https://online.ogs.ny.gov/SDVOB/search>

Note: All listed Subcontractors/Suppliers will be contacted and verified by OGS.

ADDITIONAL SHEET

Bidder/Contractor Name:	Contract/Solicitation # _____
--------------------------------	--------------------------------------

SDVOB Subcontractor/Supplier Name:			
Please identify the person you contacted:		Federal Identification No.:	Telephone No.:
Address:		Email Address:	
Detailed Description of work to be provided by subcontractor/supplier:			
Dollar Value of subcontracts/supplies/services (When \$ value cannot be estimated, provide the estimated % of contract work the SDVOB will perform): \$ _____ or _____ %			
SDVOB Subcontractor/Supplier Name:			
Please identify the person you contacted:		Federal Identification No.:	Telephone No.:
Address:		Email Address:	
Detailed Description of work to be provided by subcontractor/supplier:			
Dollar Value of subcontracts/supplies/services (When \$ value cannot be estimated, provide the estimated % of contract work the SDVOB will perform): \$ _____ or _____ %			
SDVOB Subcontractor/Supplier Name:			
Please identify the person you contacted:		Federal Identification No.:	Telephone No.:
Address:		Email Address:	
Detailed Description of work to be provided by subcontractor/supplier:			
Dollar Value of subcontracts/supplies/services (When \$ value cannot be estimated, provide the estimated % of contract work the SDVOB will perform): \$ _____ or _____ %			
SDVOB Subcontractor/Supplier Name:			
Please identify the person you contacted:		Federal Identification No.:	Telephone No.:
Address:		Email Address:	
Detailed Description of work to be provided by subcontractor/supplier:			
Dollar Value of subcontracts/supplies/services (When \$ value cannot be estimated, provide the estimated % of contract work the SDVOB will perform): \$ _____ or _____ %			

Employee Information To Be Reported By Certain Consultant Contractors

Instructions for Completing Form A and B

Form A and Form B should be completed for contracts for consulting services in accordance with the following

Form A - Contractor's Planned Employment (to be completed and submitted with bid/quote)

- **Employment Category:** enter the specific occupation(s), as listed in the O*NET occupational classification system, which best describe the planned employees to provide services under the contract.

(Note: Access the O*NET database, which is available through the US Department of Labor's Employment and Training Administration, on-line at online.onetcenter.org to find a list of occupations.)

- **Number of Employees:** enter the total number of employees in the employment category to be employed to provide services under the contract including part time employees and employees of subcontractors.
- **Number of hours:** enter the total number of hours to be worked by the employees in the employment category.
- **Amount Payable under the Contract:** enter the total amount payable by the State to the State contractor under the contract, for work by the employees in the employment category.

Form B – Contractor's Annual Employment Report. (to be completed by May 1st of each year for each consultant contract in effect at any time between the preceding April 1st through March 31st fiscal year and submitted to the Department of Civil Service, Office of the State Comptroller and Office of General Services)

- **Scope of Contract:** choose a general classification of the single category that best fits the predominate nature of the services provided under the contract.
- **Employment Category:** enter the specific occupation(s), as listed in the O*NET occupational classification system, which best describe the employees providing services under the contract.

(Note: Access the O*NET database, which is available through the US Department of Labor's Employment and Training Administration, on-line at online.onetcenter.org to find a list of occupations.)

- **Number of Employees:** enter the total number of employees in the employment category employed to provide services under the contract during the report period, including part time employees and employees of subcontractors.
- **Number of hours:** enter the total number of hours worked during the report period by the employees in the employment category.
- **Amount Payable under the Contract:** enter the total amount paid by the State to the State contractor under the contract, for work by the employees in the employment category, for services provided during the report period.

OSC Use Only:

Reporting Code:

Category Code:

Date Contract Approved:

FORM A**State Consultant Services - Contractor's Planned Employment
From Contract Start Date Through The End Of The Contract Term**

State Agency Name:

Agency Code:

Contractor Name:

Contract Number:

Contract Start Date:

Contract End Date:

O*Net Employment Category (see O*Net on-line at online.onetcenter.org)	Number of Employees	Number of hours to be worked	Amount Payable Under the Contract
Total this page			
Grand Total			

Name of person who prepared this report:

Title:

Phone #:

Preparer's Signature:

Date Prepared:

(Use additional pages, if necessary)

Page of

FORM B

Reporting Code:

Category Code:

State Consultant Services
Contractor's Annual Employment Report
Report Period: April 1, to March 31,

Agency Code:

Contract Number:

Contract Term: to

Contractor Name:

Contractor Address:

Description of Services Being Provided:

Scope of Contract (Choose one that best fits):

Analysis ☐ Evaluation ☐ Research ☐ Training ☐

Data Processing ☐ Computer Programming ☐ Other IT consulting ☐

Engineering ☐ Architect Services ☐ Surveying ☐ Environmental Services ☐

Health Services ☐ Mental Health Services ☐

Accounting ☐ Auditing ☐ Paralegal ☐ Legal ☐ Other Consulting ☐

O*Net Employment Category (see O*Net on-line at online.onetcenter.org)	Number of Employees	Number of Hours Worked	Amount Payable Under the Contract
Total this page			
Grand Total			

Name of person who prepared this report:

Preparer's Signature: _____

Title: _____ Phone #: _____

Date Prepared:

Use additional pages if necessary)

Page of

Appendix C

Sample Contract

Solicitation No. 2818

**STATE OF NEW YORK
OFFICE OF GENERAL SERVICES
ON BEHALF OF DIVISION OF HUMAN RIGHTS
AGREEMENT FOR
MARKETING, ADVERTISING, AND PUBLIC RELATIONS SERVICES
FOR THE DIVERSITY, EQUITY, INCLUSION AND TOLERANCE PUBLIC
AWARENESS CAMPAIGN**

WITH

(CONTRACTOR)

CONTRACT # DHR01-C00XXXX-1190000

THIS AGREEMENT, made this ____ day of _____, 2024 by and between the People of the State of New York, acting by and through the Commissioner of Division of Human Rights, whose office is located at One Fordham Plaza, 4th Floor, Bronx, NY 10458. (hereinafter "Commissioner", "DHR" or "State"), and (Company Name), (hereinafter "Contractor"), with an office at _____.

WITNESSETH:

WHEREAS, the DHR is responsible for the marketing, advertising, and public relations for the diversity, equity, inclusion and tolerance public awareness campaign and in fulfilling its responsibility deems it necessary to obtain these services therefore, and

WHEREAS, DHR has determined after having solicited proposals from proposers willing to supply these services, that the Contractor submitted the proposal affording the State the best value for such services and that the Contractor possesses the necessary capacity, experience and expertise for provision of marketing, advertising, and public relations, and that Contractor is ready, willing and able to perform such services on the terms hereinafter set forth.

NOW THEREFORE, in consideration of the mutual covenants herein contained, the parties do hereby agree as follows:

1. CONSIDERATION

DHR shall pay the Contractor for all marketing, advertising, and public relations fees pertaining to this campaign and other fees and expenses in accordance with the amounts and rates put forth in the Contractor's proposal attached hereto as Appendix "C", which Appendix C is hereby incorporated by reference and made a part hereof as fully as if set forth as length herein. This contract will be established with a not to exceed value of \$_____. Services performed beyond this amount will not be compensated.

2. TERM

This Agreement shall commence upon OSC approval and will be in effect for one year, with a one-year optional renewal, unless sooner terminated as herein specified.

3. SERVICES

The Contractor agrees to perform this Agreement and to furnish the services, labor and materials required in connection therewith in accordance with all the specifications, conditions, covenants and representations contained in the Request for Proposals # 2818, which is annexed as Appendix "B" hereto, and the Contractor's proposal, annexed as Appendix "C" hereto, except as such Appendices B and C have been revised by the terms hereof. Appendix B is hereby incorporated by reference and made a part hereof with the same force and effect as if set forth at length herein.

4. TERMINATION

This Agreement may be terminated in accordance with the termination provisions set forth in the solicitation attached hereto as Appendix B hereof.

5. RECORDS

The Contractor will maintain accurate records and accounts of services performed and monies expended under this Agreement. Such records will be maintained for six years following the close of the State fiscal year to which they pertain and will be made available to representatives of DHR or the New York State Comptroller, as may be necessary for auditing purposes, upon request.

6. TAXES

The Contractor will be responsible for all applicable Federal, State and Local taxes and all FICA contributions.

7. INDEPENDENT CONTRACTOR

It is understood and agreed that the legal status of the Contractor, its subcontractors, agents, officers and employees is that of an independent contractor and in no manner shall they be deemed employees or agents of the State of New York and, therefore, are not entitled to any of the benefits associated with such employment or designation.

8. APPENDIX A

Appendix A, Standard Clauses for New York State Contracts, attached hereto, is hereby expressly made a part of this Agreement as fully as if set forth at length herein.

9. ASSIGNMENT

Contractor agrees that it will not assign this Agreement, or any interest therein without the prior written consent of the Commissioner of DHR.

10. LAW

This Agreement shall be governed by the laws of the State of New York.

11. CONDITIONS PRECEDENT

This Agreement shall not be deemed executed, valid or binding unless and until approved in writing by the New York State Attorney General and the New York State Office of the State Comptroller.

12. ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement between the parties hereto and no statement, promise, condition, understanding, inducement or representation, oral or written, expressed or implied, which is not contained herein shall be binding or valid and this Agreement shall not be changed, modified or altered in any manner except by an instrument in writing executed by both parties hereto.

13. EXECUTORY CLAUSE

This Agreement shall be deemed executory only to the extent of money available to the State for performance of the terms hereof and no liability on account thereof shall be incurred by the State of New York beyond moneys available for purposes thereof.

14. INCONSISTENCIES

In the event of any discrepancy, disagreement or ambiguity between this contract agreement and Appendix B "Solicitation" and/or Appendix C "Proposal", or between any Appendices, the documents shall be given preference in the following order to interpret and to resolve such discrepancy, disagreement or ambiguity:

1. Appendix A
2. This Contract Agreement
3. Appendix B – Solicitation #2818 including Addenda
4. Appendix C – Contractor's Proposal

The parties understand and agree that any and all deviations or exceptions taken by Contractor to the State's Request for Proposal are hereby withdrawn except only to the extent that such exceptions or deviations have been explicitly incorporated into this contract agreement.

15. FORCE MAJEURE

Neither party hereto will be liable for losses, defaults, or damages under this Agreement which result from delays in performing, or inability to perform, all or any of the obligations or responsibilities imposed upon it pursuant to the terms and conditions of this Agreement, due to or because of acts of God, the public enemy, acts of government, earthquakes, floods, strikes, civil strife, fire or any other cause beyond the reasonable control of the party that was so delayed in performing or so unable to perform provided that such party was not negligent and shall have used reasonable efforts to avoid and overcome such cause. Such party will resume full performance of such obligations and responsibilities promptly upon removal of any such cause.

16. ASSIGNMENT BY STATE

The State agrees not to assign this Agreement without prior notice to and reasonable consent of the Contractor provided, however, that this Agreement may be assigned without such consent to

another agency or subdivision of the State pursuant to a governmental reorganization or assignment of functions under which the pertinent functions of DHR as an agency are transferred to a successor agency or subdivision of the State.

17. NOTICES

All notices, demands, designations, certificates, requests, offers, consents, approvals and other instruments given pursuant to this Agreement shall be in writing and shall be validly given when mailed by registered or certified mail, overnight carrier or hand delivered, (i) if to the State, addressed to the State at its address set forth above, and (ii) if to Contractor, addressed to Contractor at its address set forth above. The parties may from time to time, specify any address in the United States as its address for purpose of notices under this Agreement by giving fifteen days written notice to the other party. The parties agree to mutually designate individuals as their respective representatives for the purposes of this Agreement.

18. CAPTIONS

The captions contained in this Agreement are intended for convenience and reference purposes only and shall in no way be deemed to define or limit any provision thereof.

19. SEVERABILITY

In the event that any one or more of the provisions of this Agreement shall for any reason be declared unenforceable under the laws or regulations in force, such provision will not have any effect on the validity of the remainder of this Agreement, which shall then be construed as if such unenforceable provision had never been written or was never contained in this Agreement.

20. INFORMATION SECURITY BREACH

In accordance with the Information and Security Breach Notification Act (ISBNA) (Chapter 442 of the Laws of 2005, as amended by Chapter 491 of the Laws of 2005), a Contractor with DHR shall be responsible for all applicable provisions of the ISBNA and the following terms herein with respect to any private information (as defined in the ISBNA) received by or on behalf of DHR under this Agreement.

- A. Contractor shall supply DHR with a copy of its notification policy, which shall be modified to be in compliance with this provision, as well as DHR's notification policy.
- B. Contractor must encrypt any database fields and backup tapes that contain private data elements, as set forth in the ISBNA.
- C. Contractor must ensure that private data elements are encrypted in transit to / from their systems.
- D. In general, contractor must ensure that private data elements are not displayed to users on computer screens or in printed reports; however, specific users who are authorized to view the private data elements and who have been properly authenticated may view/receive such data.
- E. Contractor must monitor for breaches of security to any of its systems that store or process private data owned by the State.

- F. Contractor shall take all steps as set forth in ISBNA to ensure private information shall not be released without authorization from the State.
- G. In the event a security breach occurs as defined by ISBNA Contractor shall immediately notify DHR and commence an investigation in cooperation with DHR to determine the scope of the breach.
- H. Contractor shall also take immediate and necessary steps needed to restore the information security system to prevent further breaches.
- I. Contractor shall immediately notify DHR following the discovery that DHR's system security has been breached.
- J. Unless the Contractor is otherwise instructed, Contractor is to first seek consultation and receive authorization from DHR prior to notifying the individuals whose personal identity information was compromised by the breach of security, the New York State Chief Information Security Office, the Department of State Division of Consumer Protection, the Attorney General's Office or any consuming reporting agencies of a breach of the information security system or concerning any determination to delay notification for law enforcement investigations.
- K. Contractor shall be responsible for providing all notices required by the ISBNA and for all costs associated with providing said notices.
- L. This policy and procedure shall not impair the ability of the Attorney General to bring an action against the Contractor to enforce all provisions of the ISBNA or limit the Contractor's liability for any violations of the ISBNA.

21. CONTRACTOR RESPONSIBILITY

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of DHR or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

The Commissioner of DHR or her designee, in her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of DHR or her designee issues a written notice authorizing a resumption of performance under the Contract.

Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate DHR officials or staff, the Contract may be terminated by the Commissioner of DHR or her designee at the Contractor's expense where the Contractor is determined by the Commissioner of DHR or her designee to be non-responsible. In such event, the Commissioner of DHR or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

In no case shall such termination of the Contract by the State be deemed a breach thereof, nor shall the State be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination.

SAMPLE

CONTRACT NO. DHR01-C00XXXX-1190000

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

Agency Certification

"In addition to the acceptance of this Contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract."

(Company Name)

THE PEOPLE OF THE STATE OF NEW YORK

By: _____
Name:
Title:
Federal I.D. No.:
Date:

By: _____
Name:
Title:
Date:

APPROVED AS TO FORM

APPROVED

Attorney General

State Comptroller

STATE OF _____)
) ss.:
COUNTY OF _____)

On the ____ day of _____ in the year 20__, before me, the undersigned, personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

Sample Contract

Appendix A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

**[Text not included at this time because it is included
elsewhere in the solicitation. Will be added when contract
is finalized]**

Sample Contract

Appendix B

Request for Proposal

SAMPLE

Sample Contract

Appendix C

Contractor's Proposal

SAMPLE

Appendix D – Insurance Requirements

Insurance Requirements

The Bidder shall be required to procure, at its sole cost and expense, all insurance required by this Attachment.

The Bidder shall be required to provide proof of compliance with the requirements of this Attachment, as follows:

- Proof of all insurance required by Section B below shall be provided in accordance with the provisions hereof;
- After award, the Contractor shall be required to provide proof of all insurance after renewal or upon request according to the timelines set forth in Section A.13 below.

Contractors shall be required to procure, at their sole cost and expense, and shall maintain in force at all times during the term of any Contract resulting from this Solicitation, policies of insurance as required by this Attachment. All insurance required by this Attachment shall be written by companies that have an A.M. Best Company rating of "A-," Class "VII" or better. In addition, companies writing insurance intended to comply with the requirements of this Attachment should be licensed or authorized by the New York State Department of Financial Services to issue insurance in the State of New York. The State may, in its sole discretion, accept policies of insurance written by a non-authorized carrier or carriers when certificates and/or other policy documents are accompanied by a completed Excess Lines Association of New York (ELANY) affidavit or other documents demonstrating the company's strong financial rating. If, during the term of a policy, the carrier's A.M. Best rating falls below "A-," Class "VII," the insurance must be replaced, on or before the renewal date of the policy, with insurance that meets the requirements above.

Bidders and Contractors shall deliver to the State evidence of the insurance required by this Solicitation and any Contract resulting from this Solicitation in a form satisfactory to the State. Policies must be written in accordance with the requirements of the paragraphs below, as applicable. While acceptance of insurance documentation shall not be unreasonably withheld, conditioned or delayed, acceptance and/or approval by the State does not, and shall not be construed to, relieve Bidders or Contractors of any obligations, responsibilities or liabilities under this Solicitation or any Contract resulting from this Solicitation.

The Contractor shall not take any action or omit to take any action that would suspend or invalidate any of the required coverages during the term of the Contract.

A. General Conditions Applicable to Insurance. All policies of insurance required by this Solicitation or any Contract resulting from this Solicitation shall comply with the following requirements:

- 1. Coverage Types and Policy Limits.** The types of coverage and policy limits required from Bidders and Contractors are specified in Paragraph B *Insurance Requirements* below.

2. Policy Forms. Except as otherwise specifically provided herein or agreed to in the Contract resulting from this Solicitation, all policies of insurance required by this Attachment shall be written on an occurrence basis. In the event that occurrence-based coverage is not commercially available, claims-made policy forms will be considered provided that, at minimum, it includes provisions that allow for (a) reporting circumstances or incidents that may give rise to future claims and (b) an extended reporting period of not less than three years with respect to events that occurred but were not reported during the term of the policy.

3. Certificates of Insurance/Notices. Bidders and Contractors shall provide the State with a Certificate or Certificates of Insurance, in a form satisfactory to the State as detailed below, and pursuant to the timelines set forth in Section A.13. below. Certificates shall name **The New York State Division of Human Rights** One Fordham Plaza, 4th Floor, Bronx, New York 10458 as the certificate holder.

Certificates of Insurance shall:

- Be in the form acceptable to the State and in accordance with the New York State Insurance Law (e.g., an ACORD 25 certificate);
- Disclose any deductible, self-insured retention, aggregate limit or exclusion to the policy that materially changes the coverage required by this Solicitation or any Contract resulting from this Solicitation;
- Be signed by an authorized representative of the referenced insurance carriers; and
- Contain the following language in the Description of Operations / Locations / Vehicles section of the Certificate or on a submitted endorsement: **Additional insured protection afforded is on a primary and non-contributory basis. A waiver of subrogation is granted in favor of the additional insureds.**

Only original documents (certificates of insurance and any endorsements and other attachments) or electronic versions of the same that can be directly traced back to the insurer, agent or broker via e-mail distribution or similar means will be accepted.

The State requires Contractors to submit only certificates of insurance and additional insured endorsements. Contractors should refrain from submitting entire insurance policies. If an entire insurance policy is submitted but not requested, the State shall not be obligated to review and shall not be chargeable with knowledge of its contents. In addition, submission of an entire insurance policy not requested by the State does not constitute proof of compliance with the insurance requirements and does not discharge Contractors from submitting the requested insurance documentation. The State reserves the right to request other proof of insurance, including, but not limited to, policies, and Contractors agree to comply with all reasonable requests.

4. Primary Coverage. All Commercial General Liability, Business Automobile Liability, and Excess Umbrella Liability insurance policies shall provide that the required coverage shall be primary and non-contributory to other insurance available to the People of the State of New York, New York State Division of Human Rights, the New York State Office of General Services, and their officers, agents, and employees. Any other insurance maintained by the

People of the State of New York, New York State Division of Human Rights, the New York State Office of General Services, and their officers, agents, and employees shall be excess of and shall not contribute with the Bidder/Contractor's insurance.

5. Breach for Lack of Proof of Coverage. The failure to comply with the requirements of this Attachment at any time during the term of the Contract shall be considered a breach of the terms of the Contract and shall allow the People of the State of New York, New York State Division of Human Rights, the New York State Office of General Services, and their officers, agents, and employees to avail themselves of all remedies available under the Contract or at law or in equity.

6. Self-Insured Retention/Deductibles. Certificates of Insurance must indicate the applicable deductibles/self-insured retentions for each listed policy. Deductibles or self-insured retentions above \$100,000.00 are subject to approval from the State. Such approval shall not be unreasonably withheld, conditioned or delayed. Bidders and Contractors shall be solely responsible for all claim expenses and loss payments within the deductibles or self-insured retentions. If the Bidder/Contractor is providing the required insurance through self-insurance, evidence of the financial capacity to support the self-insurance program along with a description of that program, including, but not limited to, information regarding the use of a third-party administrator shall be provided upon request.

7. Subcontractors. Prior to the commencement of any work by a Subcontractor, the Contractor shall require such Subcontractor to procure policies of insurance as required by this Attachment and maintain the same in force during the term of any work performed by that Subcontractor. An Additional Insured Endorsement CG 20 38 12 19 (or the equivalent) evidencing such coverage shall be provided to the Contractor prior to the commencement of any work by a subcontractor and pursuant to the timelines set forth in Section A.13. below, as applicable. For subcontractors that are self-insured, the subcontractor shall be obligated to defend and indemnify the above-named additional insureds with respect to Commercial General Liability and Business Automobile Liability, in the same manner that the subcontractor would have been required to pursuant to this section had the subcontractor obtained such insurance policies.

8. Waiver of Subrogation. For all Commercial General Liability, Business Automobile Liability, Excess/Umbrella Liability policies and the workers' compensation insurance required below, the Bidder/Contractor shall cause to be included in its policies insuring against loss, damage or destruction by fire or other insured casualty a waiver of the insurer's right of subrogation against The People of the State of New York, New York State Division of Human Rights, the New York State Office of General Services, and their officers, agents, and employees, or, if such waiver is unobtainable (i) an express agreement that such policy shall not be invalidated if the Contractor waives or has waived before the casualty, the right of recovery against The People of the State of New York, New York State Division of Human Rights, the New York State Office of General Services, and their officers, agents, and employees or (ii) any other form of permission for the release of The People of the State of New York, New York State Division of Human Rights, the New York State Office of General Services, and their officers, agents, and employees. A Waiver of Subrogation Endorsement shall be provided upon request. A blanket Waiver of Subrogation Endorsement evidencing such coverage is also acceptable.

9. Additional Insured. The Contractor shall cause to be included in each of the Commercial General Liability, Business Automobile Liability, Media & Professional Liability and Excess/Umbrella Liability policies required below for on-going and completed operations naming as additional insured (via ISO form CG 20 10 12 19 and CG 20 37 12 19 and form CA 20 48 10 13, or a form or forms that provide equivalent coverage): The People of the State of New York, New York State Division of Human Rights, the New York State Office of General Services, and their officers, agents, and employees. An Additional Insured Endorsement, or the equivalent, evidencing such coverage shall be provided to the State pursuant to the timelines set forth in Section A.13. below. A blanket Additional Insured Endorsement evidencing such coverage is also acceptable. For Contractors who are self-insured, the Contractor shall be obligated to defend and indemnify the above-named additional insureds with respect to Commercial General Liability and Business Automobile Liability, in the same manner that the Contractor would have been required to pursuant to this Attachment had the Contractor obtained such insurance policies.

10. Excess/Umbrella Liability Policies. Required insurance coverage limits may be provided through a combination of primary and excess/umbrella liability policies. If coverage limits are provided through excess/umbrella liability policies, then a Schedule of underlying insurance listing policy information for all underlying insurance policies (insurer, policy number, policy term, coverage and limits of insurance), including proof that the excess/umbrella insurance follows form must be provided upon request.

11. Notice of Cancellation or Non-Renewal. Policies shall be written so as to include the requirements for notice of cancellation or non-renewal in accordance with the New York State Insurance Law. Within five business days of receipt of any notice of cancellation or non-renewal of insurance, the Contractor shall provide the State with a copy of any such notice received from an insurer together with proof of replacement coverage that complies with the insurance requirements of this Solicitation and any Contract resulting from this Solicitation.

12. Policy Renewal/Expiration Upon policy renewal/expiration, evidence of renewal or replacement of coverage that complies with the insurance requirements set forth in this Solicitation and any Contract resulting from this Solicitation shall be delivered to the State. If, at any time during the term of any Contract resulting from this Solicitation, the coverage provisions and limits of the policies required herein do not meet the provisions and limits set forth in this Solicitation or any Contract resulting from this Solicitation, or proof thereof is not provided to the State, the Contractor shall immediately cease work. The Contractor shall not resume work until authorized to do so by the State.

13. Deadlines for Providing Insurance Documents after Renewal or Upon Request. As set forth herein, certain insurance documents must be provided to the OGS Agency Procurement Office contact identified in the Contract Award Notice after renewal or upon request. This requirement means that the Contractor shall provide the applicable insurance document to OGS as soon as possible but in no event later than the following time periods:

- For certificates of insurance: 5 business days;
- For information on self-insurance or self-retention programs: 15 calendar days;

- For other requested documentation evidencing coverage: 15 calendar days;
- For additional insured and waiver of subrogation endorsements: 30 calendar days; and
- For notice of cancellation or non-renewal and proof of replacement coverage that complies with the requirements of this section: 5 business days from request or renewal.

Notwithstanding the foregoing, if the Contractor shall have promptly requested the insurance documents from its broker or insurer and shall have thereafter diligently taken all steps necessary to obtain such documents from its insurer and submit them to OGS, OGS shall extend the time period for a reasonable period under the circumstances, but in no event shall the extension exceed 30 calendar days.

B. Insurance Requirements

Bidders and Contractors shall obtain and maintain in full force and effect, throughout the term of any Contract resulting from this Solicitation, at their own expense, the following insurance with limits not less than those described below and as required by the terms of any Contract resulting from this Solicitation, or as required by law, whichever is greater:

Insurance Type		Proof of Coverage is Due
Commercial General Liability	No less than \$1,000,000 each occurrence	Upon notification of tentative award and updated in accordance with Contract
General Aggregate	\$2,000,000	
Products-Completed Operations Aggregate	\$2,000,000	
Personal and Advertising Injury	\$1,000,000	
Medical Expenses Limit	\$5,000	
Media & Professional Liability	\$5,000,000 each occurrence	
Business Automobile Liability Insurance	No less than \$1,000,000 each accident	
Workers' Compensation		
Disability Benefits		

*These coverages are interchangeable. One can be used in lieu of the other.

- 1. Commercial General Liability Insurance:** Such liability shall be written on the current edition of ISO occurrence form CG 00 01, or a substitute form providing equivalent coverage.

Policy shall include bodily injury, property damage and broad form contractual liability coverage.

- General Aggregate
- Products – Completed Operations Aggregate
- Personal and Advertising Injury
- Each Occurrence

Coverage shall include, but not be limited to, the following:

- Premises liability arising from operations;
- Independent contractors;

- Blanket contractual liability, including tort liability of another assumed in a contract;
- Defense and/or indemnification obligations, including obligations assumed under the Contract;
- Cross liability for additional insureds; and
- Products/completed operations for a term of no less than one year, commencing upon acceptance of the work, as required by the Contract.

2. Media & Professional Liability:

Such insurance shall apply to professional errors, acts, or omissions arising out of the scope of services (i.e. professional services, marketing, advertising and public relations services).

- Such insurance shall apply to professional errors, acts, or omissions arising out of the scope of services.
- If coverage is written on a claims-made policy, the Contractor warrants that any applicable retroactive date precedes the start of work; and that continuous coverage will be maintained, or an extended discovery period exercised, throughout the performance of the services and for a period of not less than one year from the time work under any Contract resulting from this Solicitation is completed or must agree to insure for one year following any Contract under award. Written proof of this extended reporting period or agreement must be provided to the State upon request.
- The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Services of any Contract resulting from this Solicitation.

Said insurance shall provide coverage for damages arising from, but not limited to the following:

- Coverage must be written on an “All risk” basis and not a “Named Perils” basis and include risks arising out of the core functions of advertising, broadcasting, publishing, and video and film production.
- Coverage must include but not be limited to defamation, invasion of privacy, infringement of copyright and plagiarism.
- Built-in coverage for advertising content
- Negligent publication coverage for any claim alleging harm to a person or entity that acted or failed to act in reliance upon the information published.
- Internet Liability clause with automatic coverage for websites created following policy inception.

3. Business Automobile Liability Insurance: Such insurance shall cover liability arising out of automobiles used in connection with performance under the Contract, including owned, leased, hired and non-owned automobiles bearing or, under the circumstances under which they are being used, required by the Motor Vehicles Laws of the State of New York to bear, license plates.

In the event that the Contractor does not own, lease or hire any automobiles used in connection with performance under the Contract, the Contractor does not need to obtain Business Automobile Liability Insurance, but must attest to the fact that the Contractor does not own, lease or hire any automobiles used in connection with performance under the Contract on a form provided by OGS. If, however, during the term of the Contract, the

Contractor acquires, leases or hires any automobiles that will be used in connection with performance under the Contract, the Contractor must obtain Business Automobile Liability Insurance that meets all of the requirements of this section and provide proof of such coverage to the State in accordance with the insurance requirements of any Contract resulting from this Solicitation.

4. Workers' Compensation Insurance and Disability Benefits Requirements

Sections 57 and 220 of the New York State Workers' Compensation Law require the heads of all municipal and state entities to ensure that businesses applying for contracts have appropriate workers' compensation and disability benefits insurance coverage. These requirements apply to both original contracts and renewals. **Failure to provide proper proof of such coverage or a legal exemption will result in a rejection of a Bid or any contract renewal. A Bidder will not be awarded a Contract unless proof of workers' compensation and disability insurance is provided to the State.** Proof of workers' compensation and disability benefits coverage, or proof of exemption must be submitted to OGS at the time of notification of tentative award, policy renewal, contract renewal and upon request. Proof of compliance must be submitted on one of the following forms designated by the New York State Workers' Compensation Board. **An ACORD form is not acceptable proof of New York State workers' compensation or disability benefits insurance coverage.**

Proof of Compliance with Workers' Compensation Coverage Requirements:

- Form CE-200, *Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required*, which is available on the Workers' Compensation Board's website (www.businessexpress.ny.gov);
- Form C-105.2 (9/15), *Certificate of Workers' Compensation Insurance*, sent to OGS by the Contractor's insurance carrier upon request, or if coverage is provided by the New York State Insurance Fund, they will provide Form U-26.3 to OGS upon request from the Contractor; or
- Form SI-12, *Certificate of Workers' Compensation Self-Insurance*, available from the New York State Workers' Compensation Board's Self-Insurance Office, or
- Form GSI-105.2, *Certificate of Participation in Workers' Compensation Group Self-Insurance*, available from the Contractor's Group Self-Insurance Administrator.

Proof of Compliance with Disability Benefits Coverage Requirements:

- Form CE-200, *Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required*, which is available on the Workers' Compensation Board's website (www.businessexpress.ny.gov);
- Form DB-120.1, *Certificate of Disability Benefits Insurance*, sent to OGS by the Contractor's insurance carrier upon request; or
- Form DB-155, *Certificate of Disability Benefits Self-Insurance*, available from the New York State Workers' Compensation Board's Self-Insurance Office.

Information clarifying the New York State Workers' Compensation Law requirements is available at the New York State Workers' Compensation Board's website,

<http://www.wcb.ny.gov/content/main/Employers/requirements-businesses-applying-government-permits-licenses-contracts.pdf> .

Contractor acknowledges that failure to obtain and/or keep in effect any or all required insurance on behalf of the State constitutes a material breach of contract and subjects it to liability for damages, indemnification and all other legal remedies available to the State. Contractor's failure to obtain and/or keep in effect any or all required insurance shall also provide the basis for DHR's immediate termination of any contract resulting from this Solicitation, subject only to a five business day cure period. Any termination by DHR under this section shall in no event constitute or be deemed a breach of any contract resulting from this Solicitation and no liability shall be incurred by or arise against the Division of Human Rights, its agents and employees therefore for lost profits or any other damages.

Appendix E – M/WBE and EEO Requirements

CONTRACTOR REQUIREMENTS AND PROCEDURES FOR PARTICIPATION BY NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

I. New York State Law

Pursuant to New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations (“NYCRR”), the New York State Division of Human Rights (“DHR”) is required to promote opportunities for the maximum feasible participation of New York State-certified Minority- and Women-owned Business Enterprises (“MWBEs”) and the employment of minority group members and women in the performance of DHR contracts.

II. General Provisions

- A. DHR is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 140-145 (“MWBE Regulations”) for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- B. The Contractor agrees, in addition to any other nondiscrimination provision of the Contract, and at no additional cost to DHR, to fully comply and cooperate with DHR in the implementation of New York State Executive Law Article 15-A and the regulations promulgated thereunder. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for MWBEs. Contractor’s demonstration of “good faith efforts” pursuant to 5 NYCRR § 142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) or other applicable federal, State, or local laws.
- C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, a finding of non-responsibility, breach of contract, withholding of funds, liquidated damages pursuant to clause IX of this section, and/or enforcement proceedings as allowed by the Contract and applicable law.

III. Equal Employment Opportunity (EEO)

- A. The provisions of Article 15-A of the Executive Law and the rules and regulations promulgated thereunder pertaining to equal employment opportunities for minority group members and women shall apply to all Contractors, and any subcontractors, awarded a subcontract over \$25,000 for labor, services, including legal, financial and other professional services, travel, supplies, equipment, materials, or any combination of the foregoing, to be performed for, or rendered or furnished to, the contracting State agency (the “Work”) except where the Work is for the beneficial use of the Contractor.
 - 1. Contractor and subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability, or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) the performance of

work or the provision of services or any other activity that is unrelated, separate, or distinct from the Contract; or (ii) employment outside New York State.

2. By entering into this Contract, Contractor certifies that the text set forth in clause 12 of Appendix A, attached hereto and made a part hereof, is Contractor's equal employment opportunity policy. In addition, Contractor agrees to comply with the Non-Discrimination Requirements set forth in clause 5 of Appendix A.

B. Form EEO 100 - Staffing Plan

To ensure compliance with this section, the Contractor agrees to submit, or has submitted with the Bid, a staffing plan on Form EEO 100 to the State to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and federal occupational categories.

C. Form EEO 101 - Workforce Utilization Reporting Form (Commodities and Services) ("Form EEO-101-Commodities and Services")

1. The Contractor shall submit, and shall require each of its subcontractors to submit, a Form EEO-101-Commodities and Services to OGS to report the actual workforce utilized in the performance of the Contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Form EEO-101-Commodities and Services (<https://ogs.ny.gov/eeo-101-commodities-and-services-workforce-utilization-report>) must be submitted to the OGS MWBE Office, 29th Floor Corning Tower, Empire State Plaza, Albany, NY 12242 on a quarterly basis during the term of the Contract by the 10th day of April, July, October, and January.
2. Separate forms shall be completed by Contractor and all subcontractors.
3. In limited instances, the Contractor or subcontractor may not be able to separate out the workforce utilized in the performance of the Contract from its total workforce. When a separation can be made, the Contractor or subcontractor shall submit the Form EEO-101-Commodities and Services and indicate that the information provided relates to the actual workforce utilized on the Contract. When the workforce to be utilized on the Contract cannot be separated out from the Contractor's or subcontractor's total workforce, the Contractor or subcontractor shall submit the Form EEO-101-Commodities and Services and indicate that the information provided is the Contractor's or subcontractor's total workforce during the subject time frame, not limited to work specifically performed under the Contract.

- D. Contractor shall comply with the provisions of the Human Rights Law and all other State and federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status, or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

IV. Contract Goals

- A. The State hereby establishes an overall goal of 30% for MWBE participation, 15% for Minority-Owned Business Enterprises ("MBE") participation and 15% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of MBEs and WBEs). The total

Contract goal can be obtained by utilizing any combination of MBE and/or WBE participation for subcontracting and supplies acquired under the Contract.

- B. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the Contract goals established in clause IV-A hereof, Contractor should reference the directory of New York State Certified MWBEs found at the following internet address: <https://ny.newnycontracts.com/FrontEnd/SearchCertifiedDirectory.asp?XID=1559&TN=ny> The MWBE Regulations are located at 5 NYCRR §§ 140 – 145. Questions regarding compliance with MWBE participation goals should be directed to the Designated Contacts within the OGS Office of Business Diversity. Additionally, following Contract execution, Contractor is encouraged to contact the Division of Minority and Women's Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Contract.
- C. Contractor must document "good faith efforts" to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract (see clause VII below).

V. MWBE Utilization Plan

- A. In accordance with 5 NYCRR § 142.4, Bidders are required to submit a completed Utilization Plan on Form MWBE 100 with their bid.
- B. The Utilization Plan shall list the MWBEs the Bidder intends to use to perform the Contract, a description of the Contract scope of work the Bidder intends the MWBE to perform to meet the goals on the Contract, and the estimated or, if known, actual dollar amounts to be paid to an MWBE. By signing the Utilization Plan, the Bidder acknowledges that making false representations or including information evidencing a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Any modifications or changes to the agreed participation by New York State Certified MWBEs after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to OGS.
- C. By entering into the Contract, Bidder/Contractor understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal. When an MWBE is serving as a broker on the Contract, only 25 percent of all sums paid to a broker shall be deemed to represent the commercially useful function performed by the MWBE.
- D. OGS will review the submitted MWBE Utilization Plan and advise the Bidder of OGS acceptance or issue a notice of deficiency within 30 days of receipt.
- E. If a notice of deficiency is issued; Bidder agrees that it shall respond to the notice of deficiency, within seven business days of receipt, by submitting to OGS a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by OGS to be inadequate, OGS shall notify the Bidder and direct the Bidder to submit, within five business days of notification by OGS, a request for a partial or total waiver of MWBE participation goals on Form BDC 333. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.
- F. OGS may disqualify a Bidder's bid/proposal as being non-responsive under the following circumstances:

- (a) If a Bidder fails to submit an MWBE Utilization Plan;
 - (b) If a Bidder fails to submit a written remedy to a notice of deficiency;
 - (c) If a Bidder fails to submit a request for waiver; or
 - (d) If OGS determines that the Bidder has failed to document good faith efforts.
- G. If awarded a Contract, Contractor certifies that it will follow the submitted MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in clause IV-A of this Section.
- H. Bidder/Contractor further agrees that a failure to submit and/or use such completed MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, OGS shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

VI. Request for Waiver

- A. Prior to submission of a request for a partial or total waiver, Bidder/Contractor shall speak to the Designated Contacts of the OGS Office of Business Diversity for guidance.
- B. In accordance with 5 NYCRR § 142.7, a Bidder/Contractor who is able to document good faith efforts to meet the goal requirements, as set forth in clause VII below, may submit a request for a partial or total waiver on Form BDC 333, accompanied by supporting documentation. A Bidder may submit the request for waiver at the same time it submits its MWBE Utilization Plan. If a request for waiver is submitted with the MWBE Utilization Plan and is not accepted by OGS at that time, the provisions of clauses V(C), (D) & (E) will apply. If the documentation included with the Bidder's/Contractor's waiver request is complete, OGS shall evaluate the request and issue a written notice of acceptance or denial within 20 business days of receipt.
- C. Contractor shall attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract award may be made at any time during the term of the Contract to OGS, but must be made no later than prior to the submission of a request for final payment on the Contract.
- D. If OGS, upon review of the MWBE Utilization Plan and Monthly MWBE Contractor Compliance Reports, determines that Contractor is failing or refusing to comply with the contract goals and no waiver has been issued in regards to such non-compliance, OGS may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven business days of receipt. Such response may include a request for partial or total waiver of MWBE contract goals.

VII. Required Good Faith Efforts

In accordance with 5 NYCRR § 142.8, Contractors must document their good faith efforts toward utilizing MWBEs on the Contract. Evidence of required good faith efforts shall include, but not be limited to, the following:

- 1. A list of the general circulation, trade, and MWBE-oriented publications and dates of publications in which the Contractor solicited the participation of certified MWBEs as subcontractors/suppliers, copies of such solicitations, and any responses thereto.
- 2. A list of the certified MWBEs appearing in the Empire State Development ("ESD") MWBE directory that were solicited for this Contract. Provide proof of dates or copies of the solicitations and copies

of the responses made by the certified MWBEs. Describe specific reasons that responding certified MWBEs were not selected.

3. Descriptions of the Contract documents/plans/specifications made available to certified MWBEs by the Contractor when soliciting their participation and steps taken to structure the scope of work for the purpose of subcontracting with, or obtaining supplies from, certified MWBEs.
4. A description of the negotiations between the Contractor and certified MWBEs for the purposes of complying with the MWBE goals of this Contract.
5. Dates of any pre-bid, pre-award, or other meetings attended by Contractor, if any, scheduled by OGS with certified MWBEs whom OGS determined were capable of fulfilling the MWBE goals set in the Contract.
6. Other information deemed relevant to the request.

VIII. Monthly MWBE Contractor Compliance Report

- A. In accordance with 5 NYCRR § 142.10, Contractor is required to report Monthly MWBE Contractor Compliance to OGS during the term of the Contract for the preceding month's activity, documenting progress made towards achievement of the Contract MWBE goals. OGS requests that Contractor use the MWBE 102 Non-Construction Contracts Monthly Payments Report Rev01 to report subcontractor and supplier payments made by Contractor to MWBEs performing work under the contract. The Contractor must also report when no payments have been made to a subcontractor or supplier in a particular month.
- B. When a Contractor receives a payment from a State agency, it is the Contractor's responsibility to pay its subcontractors and suppliers in a timely manner. OGS requires Contractor to submit the MWBE 102 within ten business days of Contractor's receipt of payment from OGS to: OGS Office of Business Diversity, 29th floor Corning Tower, Empire State Plaza, Albany, NY 12242. Phone: 518-486-9284; Fax: 518-486-9285.
- C. Failure to submit the MWBE 102 as requested by OGS may jeopardize future payments pursuant to the MWBE liquidated damages clause in clause IX below.
- D. Contractor must submit a Monthly MWBE Contractor Compliance Report on Form MWBE 102 to OGS, by the 10th day of each month during the term of the Contract, for the preceding month's activity to: OGS Office of Business Diversity, 29th Floor Corning Tower, Empire State Plaza, Albany, NY 12242. Phone: 518-486-9284; Fax: 518-486-9285.
- E. It is the Contractor's responsibility to report subcontractor and supplier payments. Failure to respond to report payments in a timely fashion to OGS, may jeopardize future payments pursuant to the MWBE liquidated damages provisions in clause IX below.

IX. Breach of Contract and Liquidated Damages

- A. Where OGS determines that the Contractor is not in compliance with the requirements of this Contract, and the Contractor refuses to comply with such requirements, or if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, the Contractor shall be obligated to pay liquidated damages to OGS.
- B. Such liquidated damages shall be calculated as an amount equaling the difference between:
 1. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
 2. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.

- C. If OGS determines that Contractor is liable for liquidated damages and such identified sums have not been withheld by OGS, Contractor shall pay such liquidated damages to OGS within 60 days after they are assessed. Provided, however, that if the Contractor has filed a complaint with the Director of the Division of Minority and Women's Business Development pursuant to 5 NYCRR § 142.12, liquidated damages shall be payable only in the event of a determination adverse to the Contractor following the complaint process.

X. Fraud

Any suspicion of fraud, waste, or abuse involving the contracting or certification of MWBEs shall be immediately reported to ESD's Division of Minority and Women's Business Development at (855) 373-4692.

ALL FORMS ARE AVAILABLE AT: <https://ogs.ny.gov/mwbe/forms>

Appendix F – SDVOB Requirements

PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN OWNED BUSINESSES

Article 3 of the New York State Veterans' Services Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOB"), thereby further integrating such businesses into New York State's economy. OGS recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of OGS contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

I. Contract Goals

- A. OGS hereby establishes an overall goal of 6% for SDVOB participation, based on the current availability of qualified SDVOBs. For purposes of providing meaningful participation by SDVOBs, the Bidder/Contractor should reference the directory of New York State Certified SDVOBs found at: <https://ogs.ny.gov/veterans/>. Questions regarding compliance with SDVOB participation goals should be directed to the OGS Designated Contacts. Additionally, following Contract execution, Contractor is encouraged to contact the Office of General Services' Division of Service-Disabled Veterans' Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss additional methods of maximizing participation by SDVOBs on the Contract.
- B. Contractor must document "good faith efforts" to provide meaningful participation by SDVOBs as subcontractors or suppliers in the performance of the Contract (see clause IV below).

II. SDVOB Utilization Plan

- A. In accordance with 9 NYCRR § 252.2(i), Bidders are required to submit a completed SDVOB Utilization Plan on Form SDVOB 100 with their bid.
- B. The Utilization Plan shall list the SDVOBs that the Bidder intends to use to perform the Contract, a description of the work that the Bidder intends the SDVOB to perform to meet the goals on the Contract, the estimated dollar amounts to be paid to an SDVOB, or, if not known, an estimate of the percentage of Contract work the SDVOB will perform. By signing the Utilization Plan, the Bidder acknowledges that making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Any modifications or changes to the agreed participation by SDVOBs after the Contract award and during the term of the Contract must be reported on a revised SDVOB Utilization Plan and submitted to OGS.
- C. OGS will review the submitted SDVOB Utilization Plan and advise the Bidder/Contractor of OGS acceptance or issue a notice of deficiency within 20 days of receipt.

- D. If a notice of deficiency is issued, Bidder/Contractor agrees that it shall respond to the notice of deficiency, within seven business days of receipt, by submitting to OGS a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by OGS to be inadequate, OGS shall notify the Bidder/Contractor and direct the Bidder/Contractor to submit, within five business days of notification by OGS, a request for a partial or total waiver of SDVOB participation goals on SDVOB 200. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.
- E. OGS may disqualify a Bidder's bid or proposal as being non-responsive under the following circumstances:
 - (a) If a Bidder fails to submit an SDVOB Utilization Plan;
 - (b) If a Bidder fails to submit a written remedy to a notice of deficiency;
 - (c) If a Bidder fails to submit a request for waiver; or
 - (d) If OGS determines that the Bidder has failed to document good faith efforts.
- F. If awarded a Contract, Contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the Contract pursuant to the prescribed SDVOB contract goals set forth above.
- G. Contractor further agrees that a failure to use SDVOBs as agreed in the Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, OGS shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

III. Request for Waiver

- A. **Prior to submission of a request for a partial or total waiver, Bidder/Contractor shall speak to the Designated Contacts at OGS for guidance.**
- B. In accordance with 9 NYCRR § 252.2(m), a Bidder/Contractor that is able to document good faith efforts to meet the goal requirements, as set forth in clause IV below, may submit a request for a partial or total waiver on Form SDVOB 200, accompanied by supporting documentation. A Bidder may submit the request for waiver at the same time it submits its SDVOB Utilization Plan. If a request for waiver is submitted with the SDVOB Utilization Plan and is not accepted by OGS at that time, the provisions of clauses II (C), (D) & (E) will apply. If the documentation included with the Bidder's/Contractor's waiver request is complete, OGS shall evaluate the request and issue a written notice of acceptance or denial within 20 days of receipt.
- C. Contractor shall attempt to utilize, in good faith, the SDVOBs identified within its SDVOB Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract award may be made at any time during the term of the Contract to OGS but must be made no later than prior to the submission of a request for final payment on the Contract.
- D. If OGS, upon review of the SDVOB Utilization Plan and Monthly SDVOB Compliance Report (SDVOB 101) determines that Contractor is failing or refusing to comply with the contract goals and no waiver has been issued in regard to such non-compliance, OGS may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven business days of receipt. Such response may include a request for partial or total waiver of SDVOB contract goals.

Waiver requests should be sent to the primary designated contact as stipulated on the front cover of this solicitation and within the body of the solicitation itself.

IV. Required Good Faith Efforts

In accordance with 9 NYCRR § 252.2(n), Contractors must document their good faith efforts toward utilizing SDVOBs on the Contract. Evidence of required good faith efforts shall include, but not be limited to, the following:

- (1) Copies of solicitations to SDVOBs and any responses thereto.
- (2) Explanation of the specific reasons each SDVOB that responded to Bidders/Contractors' solicitation was not selected.
- (3) Dates of any pre-bid, pre-award or other meetings attended by Contractor, if any, scheduled by OGS with certified SDVOBs whom OGS determined were capable of fulfilling the SDVOB goals set in the Contract.
- (4) Information describing the specific steps undertaken to reasonably structure the Contract scope of work for the purpose of subcontracting with, or obtaining supplies from, certified SDVOBs.
- (5) Other information deemed relevant to the waiver request.

V. Monthly SDVOB Contractor Compliance Report

In accordance with 9 NYCRR § 252.2(q), Contractor is required to report Monthly SDVOB Contractor Compliance to OGS during the term of the Contract for the preceding month's activity, documenting progress made towards achieving the Contract SDVOB goals. This information must be submitted using form SDVOB 101 available at <https://ogs.ny.gov/veterans/> and should be completed by the Contractor and submitted to OGS, by the 10th day of each month during the term of the Contract, for the preceding month's activity to:

NYS Office of General Services
Financial Administration – Agency Procurement Office
Corning Tower, 32nd Floor, ESP
Albany, New York 12242

Please include the contract number and primary designated contact name with this report.

VI. Breach of Contract and Damages

In accordance with 9 NYCRR § 252.2(s), any Contractor found to have willfully and intentionally failed to comply with the SDVOB participation goals set forth in the Contract, shall be found to have breached the contract and Contractor shall pay damages as set forth therein.

ALL FORMS ARE AVAILABLE AT: <https://ogs.ny.gov/veterans/>

ATTACHMENT 1 - COST PROPOSAL FORM

RFP # 2818

Contractor: _____

The Contractor listed above agrees to provide all services in accordance with the specifications in this RFP for the prices proposed below.

Proposal submitted must include a value for each Deliverable listed below. Failure to do so may result in the rejection of the proposal. See Section 2.2 – Deliverables and Section 5.4 - Price for details.

Deliverable	Price
Deliverable 1: Strategy and Creative Content	\$ _____
Deliverable 2: Key Creative Tactics	\$ _____
Deliverable 3: Digital Engagement	\$ _____
Deliverable 4: Websites and Social Media Sites	\$ _____
Deliverable 5: Ephemera Production & Distribution	\$ _____
Deliverable 6: Community Engagement – Art & Cultural Commissions	\$ _____
Deliverable 7: Creation of Program Toolkits	\$ _____
Deliverable 8: Measuring Impact and Reporting	\$ _____
Grand Total Amount*	\$ _____

*Grand Total Amount is not a guarantee of payment. Contractor shall be paid only for actual services rendered.

Early payment discounts offered: _____% / ____ days after receipt of proper invoice
_____ % / ____ days after receipt of proper invoice

Printed Name

Title

Signature

Date